the weekly Standard

OCTOBER 27, 1997

$2.95

THE SUICIDE OF VINCENT FOSTER—YES, THE SUICIDE

BYRON YORK

Politically Incompetent

Andrew Ferguson on ABC's 'Politically Incorrect,' the talk show to end all talk shows (alas)

Logrolling at the *Times Book Review*

CHRISTOPHER CALDWELL

The Janet Reno Follies

BRIT HUME

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Federally mandated rate restructuring means big discounts for a few corporate energy gluttons—the "big dog" as one executive describes his company—and rate hikes masquerading as consumer "choice" for the rest of us. It's just some Big Business interests colluding with Big Government to engineer a "one-size-must-fit-all" gaming of the system!

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Small Business SURVIVAL Committee

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Standard

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The Audit Bureau Member

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Who Doomed a Partial-Birth Ban?

On October 8, 296 members of the House voted to once more send a ban on partial-birth abortion to President Clinton. He promptly vetoed the bill, using exactly the same discredited health-of-the-mother arguments as last time, back in April 1996. The gruesome procedure involves delivering the body but not the head of a baby, and then vacuuming out its brains. This both achieves the abortion and, under existing law, allows the "doctor" to avoid being prosecuted for infanticide. It is worth noting that 132 House members, including eight Republicans, joined the president in voting to keep the practice legal. Who were these eight Republicans? We're glad you asked. Here are their names: Jim Kolbe of Arizona, Tom Campbell and Steve Horn of California, Nancy Johnson of Connecticut, Connie Morella of Maryland, Sherwood Boehlert and Ben Gilman of New York, and Jim Greenwood of Pennsylvania.

The congressional leadership does not plan another attempt to override the president's partial-birth veto until sometime next year. In the House, the override will probably succeed, the GOP "gang of eight" notwithstanding: The vote margin there was enough to enact a law over the president's objections. But when the Senate passed its latest version of the bill, on May 20 of this year, it did so by a vote of 64-36, three votes short of a veto-proof majority. Four Republican senators voted with the minority to uphold the legality of partial-birth abortion. They are: Susan Collins and Olympia Snowe of Maine, John Chafee of Rhode Island, and Jim Jeffords of Vermont. If these four men and women do not change their votes, then a barbaric and unnecessary surgical procedure may well continue to enjoy the implicit sanction of federal law. And they—along with President Clinton and 32 of the Senate's 45 Democrats—will deserve the blame. Voters should seriously consider whether to return such irresponsible legislators to Washington.

Cosi Cosa

Poor Jeffrey Rosen. He evidently thought he had a boffo lede for his cover story on Ruth Bader Ginsburg in the *New York Times Sunday Magazine*. He bumped into Justice Ginsburg at the opera, where Mozart's *Così fan tutte* was playing. The "traditional translation of the title," writes Rosen, is "Never Trust a Woman." Ginsburg—looking at Rosen "indulgently with her unblinking eyes"—pointed out that the title was "in the third person plural," so that "'They are all like that' would be a more accurate translation." Rosen continues: "And so, she said, there was no reason to assume from the title that Mozart and his librettist, Lorenzo da Ponte, approved of male infidelity any more than they approved of female infidelity, or that they thought women inherently more or less trustworthy than men." Rosen grandly concludes that "Justice Ginsburg's elegant reconception of the 18th-century text epitomizes the vision of mainstream, equal-treatment feminism that she [has] championed."

Ginsburg and Rosen are both talking nonsense. The word *tutte* means all WOMEN, not all PEOPLE (that would be *tutti*). That is why the "traditional" title is not Rosen's "Never Trust a Woman," but "All Women Are Like That." Pardon the pedantry, but if Justice Ginsburg "reconceptualizes" *this* 18th-century text so freely, what about that other 18th-century text that she has to interpret every day—the Constitution of the United States?

Supply-Cide

Ever heard the one about the two economists who fall into a mass grave? "How are we going to get out of here?" asks the first economist. "Imagine a ladder," says the second.

The National Center for Policy Analysis recently sent out a press release with an astonishing headline: "World is Becoming More Peaceful Because Killing People is Becoming Too Expensive, Study Says." Senior fellow Gerald Scully examined 31 nations in which dictators had killed over 10,000 of their own citizens. Scully found that genocide doesn't pay: "Even ruthless dictators need tax revenue and you can't collect taxes from dead people." Scully argues that mass murder has declined of late as governments have begun to appreciate the cost. "The Soviet Union and China reached the point where the governments couldn't afford to kill any more," Scully continues. "On the other hand, per capita income is so low in some countries—particularly in Africa—that dictators and rul-

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ing groups still find killing their own people in their self-interest." Oh, so *that's* how we explain Hitler. Thanks so much for the information!

Scurrilous Blurb of the Year

Timothy Garton Ash's *The File* is an account of a crushing discovery the author made after the fall of the Berlin Wall. A significant number of Garton Ash's best "friends" from his time as a graduate student in Berlin in the early 1980s turned out to have been secret-police informants for East Germany's Ministerium für Staatssicherheit, the notorious Stasi. It's a strange and haunting book, but don't judge it by its cover—certainly not by its back cover, where the fatuous Arthur Miller plugs it as "a kind of meditation on Garton Ash's personal experience with the Stasi, the dreaded secret police organ of the East German regime. No population was as closely watched for signs of dissidence, although Hoover's FBI came fairly close at times."

Still more proof, if any were necessary, that the Golden Rule of fellow-traveling anti-anti-communism is, It Takes One To Know One. "Attention must finally be paid," runs the famous line from *Death of a Salesman*. Arthur, we're paying attention: You're a com-symp.

Local Heroes

For the past four years, the Washington Scholarship Fund, a non-profit organization founded by two former Department of Education staffers, has provided scholarships for low-income D.C. students. Currently, the WSF pays between 30 and 60 percent of private-school tuition for 460 students. Now, thanks to a $6 million gift from Ted Forstmann and John Walton ($3 mil' each), the WSF will be able to provide scholarships to an additional 1,000 children a year. The Forstmann-Walton gift makes the WSF the second largest program of its kind in the country, topped only by the Bradley Foundation's PAVE program in Milwaukee.

Jaime-Town

Jaime Escalante, the famed math teacher depicted in the 1987 film *Stand and Deliver*, is joining California's anti-bilingual campaign "English for the Children" as honorary chairman. Before Escalante began his fight to teach advanced-placement calculus to students in an East Los Angeles barrio, he was active in the fight to end bilingual education. "It seems a real tragedy," he said, "that in many cases our public schools are not teaching English to 5- or 6-year-old immigrant children, who are at an age when they can so easily learn the language."

This big-name addition should help build momentum for the ballot campaign, but the fact is that support for ending bilingual education is overwhelming, especially among Latinos. The *Los Angeles Times* recently released a poll showing that 84 percent of California's Latino voters favor dismantling bilingual education. Support is in the 75-80 percent range across the board, all races, ages, and income levels.

Announcement

In the good news/bad news department, our deputy editor John Podhoretz has been asked to take charge of the editorial and op-ed pages of the *New York Post*, a responsibility he will assume in a few weeks. Needless to say, their gain is our loss, or partial loss. He will continue to write frequently for us as a contributing editor. One of the founders of The Weekly Standard, John has been an invaluable part of the magazine. We expect that his impact there, if at all comparable to what he has accomplished here, will be spectacular, and we wish him all the best.

—*WK*

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Casual

Where'er I May Romanian

The plane, overbooked, was crawling with irritable travelers. After some seat reshuffling, I squeezed by a burly, hostile-looking man and settled in. I figured on an unpleasant flight. The man and I wrestled over our shared armrest for about five minutes, until I gave up.

When the drinks cart came around, I heard him say, "Gin and tonic," in an accent I couldn't place. Curious, I decided to attempt conversation: "Kind of cold in here, isn't it?" I said. "Indeed," he answered, and there ensued seven of the most interesting hours I have ever spent.

He had come from Bucharest, and that led to topics Romanian. I would start safe, cultural: Dinu Lipatti (a pianist, who died young in 1950)? Yes, he knew of him, cherished him, and had at that moment a set of recordings by Lipatti in his duffel bag.

I mentioned Clinton's recent trip to Bucharest. My, how the crowds had cheered, even though the United States had refused to admit Romania to NATO. "Yes," the man said, "but we know we'll get in, and we were overjoyed to see the American president—not the individual, understand, but the idea."

In time, the dark name of Ceausescu came up, and he began—slowly at first, then with gusto—to speak of life under communism: its brutality, its abnormality, its terrors large and small. I had forgotten, sort of, how bad it was. The Iron Curtain crumbled not 10 years ago, yet the Soviet bloc can seem as distant as the Ottoman Empire. My seatmate brought back to me the horror of it all, how the dictator and his miserable, murderous wife had suffocated Romanian citizens day and night, in quest of a perfect totalitarianism.

And where had he been, when news came of the regime's collapse? "In the strangest of all places: the middle of the ocean." He had served—and still served—as an electrical engineer aboard ships. His big plan, years ago, was to join the merchant marine and escape to America. But two days before he set sail, he met a woman—Monica, an English teacher—and "suddenly, the prison house was bearable. With her, I could live anywhere."

So he was in his bunk, fiddling with a shortwave radio, when he heard that the Ceausescus had fled. He could not believe his ears—thought it was a hoax, or a mistake, or his own hallucination. He was afraid to speak to anyone about it, because "even at sea, they watched you, through their agents." Eventually, he informed his captain, who informed the rest of the men. They murmured and grinned, then laughed and shouted, then wept and sank to their knees. "It was," the man told me, "the happiest day of my life."

After an hour or so, an astounding fact came clear: He knew everything. That is, he had read everything, thought about everything, seen (through his voyages) everything. He had devoted his life to teaching himself languages and traversing the world's great literature. At sea, he was permitted to have 40 kilograms of personal material, and 30 of those he reserved for books. He worked "for my bread" until 5 o'clock, after which he fed himself fiction, history, and art until he could stay awake no longer.

He was a particularly keen student of Latin American literature and had translated four or five of the more important novels into Romanian. "How about that buddy of Castro," I asked, "the *Hundred Years of Solitude* guy?" "A bad character, but an enormous literary talent." "Isabel Allende? Don't people read her because of her political associations?" "Perhaps, but they ought to anyway." He went on at engrossing length about Julio Cortázar, scribbling the names of his books for me on a napkin.

I began to pepper him with questions—about Bosnia, Homer, Catholicism and Orthodoxy, American letters (Cheever he admired), the quirks of Communist rule ("You will be disappointed," he confided, sorrowfully, "that Lipatti's brother was for 20 years ambassador to France, a pet of the regime"). He made me think of certain qualities that I had let slip away: a love of discovery, a reverence for the masters, an unprofessionalized dedication to knowledge.

As the plane descended—my friend was, amusingly, a nervous flyer, though he had traveled to the far corners of the globe by ship—I thought of the chestnut "Travel is broadening." And so it is—for the British Museum, the Acropolis, and Victoria Falls, sure, but also for encounters with strangers, like Radu Niciporuc, who, for my money, is one of the most extraordinary people alive.

Jay Nordlinger

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A Chance to Write History

Tough negotiating by the Clinton administration has made the most open, far-reaching aviation agreement with Japan possible.

Clinton administration officials are in the final stage of negotiating the most open, far-reaching aviation agreement with Japan in history. This breakthrough deal, when completed, will generate more than $10 billion annually in new economic activity and support 250,000 jobs in the United States. It will mean more flights by more airlines between more cities in the United States and Japan and beyond. And it will mean a real advancement in our trade relationship with Japan. We applaud the Clinton administration for its tough negotiating and commitment to the national interest.

Support the Clinton administration's fight for a new aviation agreement that benefits all Americans.

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Forbes's Chords of Liberty

In his otherwise useful survey of Steve Forbes's nascent presidential efforts, Fred Barnes gratuitously adds to THE WEEKLY STANDARD's litany of attacks on libertarianism ("The Forbes Factor," Oct. 13). The problem with Forbes's 1996 campaign, we're told, is that because "he talked obsessively about a 17 percent flat tax, he appealed chiefly to a narrow sliver of voters, mostly supply-siders and libertarians." That "sliver" was large enough to generate victories in the Arizona and Delaware primaries and at one point had Forbes second in Iowa. His collapse in that state was due primarily to a massive push poll paid for by Bob Dole that distorted Forbes's views on abortion and cited a fictitious study that claimed the flat tax would damage farm values. It had nothing to do with his free-market/libertarian views. Indeed, the free market/libertarian sentiment probably already makes up a plurality of Americans, not to mention an overwhelming majority of the rapidly growing netizen community that so troubles the neo-Luddite editors of THE WEEKLY STANDARD.

Forbes's troubles in 1996 didn't stem just from Dole's dishonest and unethical tactics or the appeals to class envy on the part of virtually all of the GOP field. Rather, the campaign strategy of not organizing grass-roots forces and spending way too much money on media attacks was to blame.

I applaud Forbes's decision to include a call for moral leadership along with his libertarian policy proposals, ranging from the flat tax to school choice to Social Security privatization. There is nothing inconsistent in his doing so. Indeed, enlightened leaders of the religious Right such as Paul Weyrich and Ralph Reed, as well as their constituencies, are fully aware that government is not the proper vehicle for establishing and promoting moral and ethical standards in our society. Without the freedom to choose, morality is a meaningless concept, in any case.

Ronald Reagan's ability to ally social conservatives with free-market libertarians was not done through sleight of hand, but rather because the desirability of reducing government's role in our society was evident to both groups. While the editors of THE WEEKLY STANDARD may view national greatness as requiring the construction of a tunnel between New York and London or some such project, Steve Forbes is touching a responsive chord in Americans who find a nation's greatness in its ability to secure human liberty.

EDWARD H. CRANE
PRESIDENT
THE CATO INSTITUTE
WASHINGTON, DC

More Conflicting Visions

In his review of my book *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* ("Sins of Our Fathers—Again," Oct. 13), Andrew Peyton Thomas criticizes me for not writing a second volume on 20th-century citizenship laws. If Thomas had read carefully, he would have learned that I am indeed writing that volume. Thomas's self-contradictory assaults are prime evidence that it is needed.

Thomas cannot criticize a single fact in my book as erroneous, so he relies on snide distortions. He snips out passages where I acknowledge exclusionary views in leaders I greatly admire, like Frederick Douglass and Abraham Lincoln, in order to make full assessments look one-sided. He says it is wrong to focus on decisions of the judiciary because it is "the least democratic branch," without noting that most of the decisions I discuss simply *add* a judicial imprimatur to laws passed by Congress and signed by the president. I also note, as he does not, that though *Dred Scott* did strike down a congressional law, candidates endorsing it won 61 percent of the presidential vote in 1860. It is simply absurd to deny that the exclusionary views I discuss were politically popular.

His worst distortion is to imply that I see the patterns of discrimination and exclusion that I detail as "simply a reflection of Anglo-Saxon culture" or "inherently 'American.'" The central theme of my book is that such patterns are made likely by the politics of nation-building, *everywhere and always*. I simply insist that the United States has been no exception. Thomas claims that position is a "truism," and yet he ends up denying it. The United States, he says, *is* an exception: It has done more "than perhaps any other nation to redeem its misdeeds," and so "ought to pat itself on the back."

The United States has indeed made progress of which we can be proud, as I state. But when we recognize that income gaps between blacks and whites and women and men remain substantial, that in real terms the economic condition of poor blacks has worsened in recent years, that the nation's education system is sharply segregated and rapidly getting more so, that new forms of scientific racism have been gaining respectability inside and outside the academy—then what Thomas is really saying becomes clear. By dismissing the past as if it had no impact on the present and by smugly, complacently telling us to stand pat, he is urging us to perpetuate the injustices whose pervasive presence he cannot deny, and from which he benefits with apparent relish. Gee, I guess he's right: There *is* nothing new in all that.

ROGERS M. SMITH
NEW HAVEN, CT

Adrenal Patriotism

I enjoyed John Podhoretz's words of praise for the musical *1776* ("Watching, Seeing, Reading," Oct. 13). I too experienced that wonderful and arresting feeling when I first saw the musical seven years ago. The brilliance of *1776*

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is that it first engages the audience with humor and then, as the plot progresses, draws them into the very serious ideas and events that constituted the American Revolution. To be sure, *1776* takes some license, with John Adams expressing contempt for his antagonist John Dickinson's overriding concern for private-property rights, and James Wilson of Pennsylvania portrayed as a coward seeking obscurity, when in fact he remained a respected leader after the Revolution, even serving on the U.S. Supreme Court. But such transgressions can be forgiven. As *1776* closes, the Liberty Bell is sounded to mark each congressman's signing of the Declaration of Independence. I dare say I wasn't the only one in the audience who felt shivers up and down her spine —as well as a profound respect for the vision and courage of our founding fathers.

CHRISTINE HALL
SILVER SPRING, MD

BOYS WITH CHESTS

In praising G. A. Henty and other Victorian novelists, David Frum paints too gloomy a picture of recent literature for elementary-school boys ("When Boys Were Boys," Oct. 20). One need not go back to the 19th century to find well-written, appealing fiction that depicts courageous male characters. I highly recommend the following books and authors: *Hatchet* and many other survival stories by Gary Paulsen, *Save the Queen of Sheba* by Louise Moeri, the *Redwall* series by Brian Jacques, the *My Teacher is an Alien* series by Bruce Coville, *Mrs. Frisby and the Rats of NIMH* by Robert C. O'Brien, *Maniac Magee* by Jerry Spinelli, *Shiloh* by Phyllis Naylor, and *The Sign of the Beaver* by Elizabeth George Speare. For a series of books similar in tone to *The Adventures of Tom Sawyer*, try the *Great Brain* series by John D. Fitzgerald. True, most of these books do not depict courage on the battlefield, but they do feature male characters who find the courage to triumph against terrible odds in a variety of situations. Best of all, many of these books were actually assigned by teachers in the Fairfax County, Va., public schools. Cheer up! Things aren't so bad.

SUSAN KRISTOL
MCLEAN, VA

EPISCOPAL ROAD SHOW

This reader has seldom read such a graphic exposé of the divided condition of the Episcopal church ("The Episcopal Church in Crisis," Oct. 13). Here our most extreme revisionism is painfully laid out by Tucker Carlson for all to see. The Gospel of God is given for us to evangelize the world, yet it would appear that in significant measure the world is evangelizing the Episcopal church.

It is obvious to all that the present divisions in the Episcopal Church cannot long be tolerated by its members. Factions contradict and denounce the most sacred convictions of each other. Since it is the revisionists who are changing the central assertions of sacred Scripture, it would seem that the only honest thing for them to do would be either to recover their first love in the Gospel and to return to God's word as written, or to take their new show on the road. We would prefer the former but could acknowledge the moral integrity of the latter.

THE VERY REV. DR. JOHN H. ROGERS JR.
DEAN EMERITUS
TRINITY EPISCOPAL SEMINARY
AMBRIDGE, PA

GORE'S PREMATURE SENILITY

Duane W. Bailey suggests a national memory test to measure alleged memory problems at the Clinton White House ("You Must Remember This," Oct. 6). Meanwhile, Professor Bailey's article suggests his own crying need for remedial work in the use of quotation marks.

Bailey writes that "Vice President Al Gore has a particularly weak memory for small numbers. ('I may have made a few calls. I just don't remember.')" It is clear from the context that this is supposed to be a remark about fund-raising calls from the White House.

Intrigued by Bailey's use of a "quote" that didn't resemble anything I'd ever heard Gore say on the subject, I called the good professor to ask the source of this so-called quote. I learned, not surprisingly, that there was no source—that this was simply Bailey's account of "what I think he said on one of his appearances on TV."

GOP partisans have widely misquoted Gore as saying that he made only "a few calls" from his office. Professor Bailey is the first writer I've seen who also tries to pretend that Gore somewhere said that he couldn't remember. From his sylvan aerie—with his own memory failing—Professor Bailey provides a revealing lesson in the way urban legends can grow.

BOB SOMERBY
BALTIMORE, MD

DUANE W. BAILEY RESPONDS: ***I do remember a conversation with Somerby, and I am grateful to him for correcting the inaccuracy of my "quote." Nevertheless, I don't believe that I did Gore a serious disservice. On March 4, the*** **New York Times** ***reported that "Vice President Al Gore acknowledged today that 'on a few occasions' he had made telephone calls from his White House office." By August 27 the*** **Times** ***was reporting that he "was asked by the Democratic National Committee to make 140 fund-raising telephone calls and made 86, all from his White House office." It also reported, "Earlier this month, the White House put the number at 48. Documents obtained today . . . indicate a number about twice as high." Clearly someone had forgotten something. It is possible of course that Gore made all 86 calls on one or two marathon occasions, but I think most listeners took his original statement to mean that the number of calls had been minimal, as well as the number of occasions. The most charitable interpretation is to assume that with the passage of time he had simply forgotten how many calls were made.***

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Puerto Rico

WHERE GREAT IDEAS ARE BEING PUT TO WORK

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the weekly Standard

PUNTING ON PREFERENCES

We take you first to Texas. On September 26, President Clinton visited Houston for another in an endless series of DNC fundraisers. While he was there, he did a little drop-by at San Jacinto College. His subject was affirmative action. The president heaped praise on outgoing Houston mayor Bob Lanier for having hiked the quotas—sorry, "goals"—employed by the city's Minority, Women, and Disadvantaged Business Enterprise program. This program now sets aside 20 percent of an annual $1 billion municipal procurement budget for companies owned by people presumed to be disadvantaged. And that presumption is automatic; it is based on nothing more than the racial, ethnic, and gender identity of its intended beneficiaries.

In other words, Houston's set-aside program is exactly the sort of undifferentiated, unlimited, and unjustified group preference that has been flatly unconstitutional since the Supreme Court's 1989 *Croson* decision. But the president of the United States thinks it would be a grave mistake for Houston, Texas, to heed the Fourteenth Amendment. A measure included on the forthcoming November 4 ballot, the Houston Civil Rights Initiative, would oblige the city to do just that. At San Jacinto College, Clinton called the initiative an effort to "turn back the clock on the progress of the last 50 years." You should vote against it, he told his audience. In short, to hell with the Constitution.

The week after the president made this amazing pronouncement, Ward Connerly, leader of California's Proposition 209, which the Houston initiative closely follows, wrote letters to Texas governor George W. Bush and the state's entire Republican congressional delegation. He asked them to support the Houston measure. Still today, three weeks later, not one of them has responded. Houston's leading Republican mayoral candidate, Rob Mosbacher, publicly opposes the initiative. He calls it "very divisive," notwithstanding the fact that it would merely bring Houston into compliance with the Constitution and is favored by a sizable margin in every public and private poll.

We move on now to Michigan. The issue is racial and ethnic preferences in student selection by the state's leading public undergraduate institution, the College of Literature, Science, and Arts at the University of Michigan, Ann Arbor. According to data published in June by the *Detroit News*, the college offered a place in its fall 1995 freshman class to any and all minority applicants who had combined SAT scores between 1,200 and 1,290. Only 12 percent of nonminority applicants with equal scores were invited to enroll. The *News* then filed a Freedom of Information Act request for comparable data from the subsequent, fall 1996 freshman class. The university denied this request, on grounds that its computer system, now undergoing a splashy $3.8 million upgrade, was no longer able to correlate the race, high-school grades, and test results of its applicants.

But school administrators have been unable to claim computer immunity for other damning information about their group-think admissions procedures. It seems the Ann Arbor campus has been imposing an elaborate system of boxed grids on its many thousands of applications each year. Inside the boxes, each representing a cross-tabulation of grades and test scores, appear graphic instructions to the college's admissions clerks about how they are to treat the relevant students. They are to treat those students differently—weed them in and out during an initial review—according to what color they are. African-American and Hispanic applicants over here; equally qualified white and Asian-American applicants over there.

Armed with these appalling documents, two students rejected for admission in 1995 and 1996 filed a federal class-action suit against the university on October 14. They want compensatory and punitive damages at trial. One wants admission to the college as a transfer student. And, most important, both seek an injunction against any future racial discrimination by the college admissions office. For its part, the university vehemently denies doing anything wrong, though undergraduate dean Edie Goldenberg says she can't be sure precisely "what is going to eventuate."

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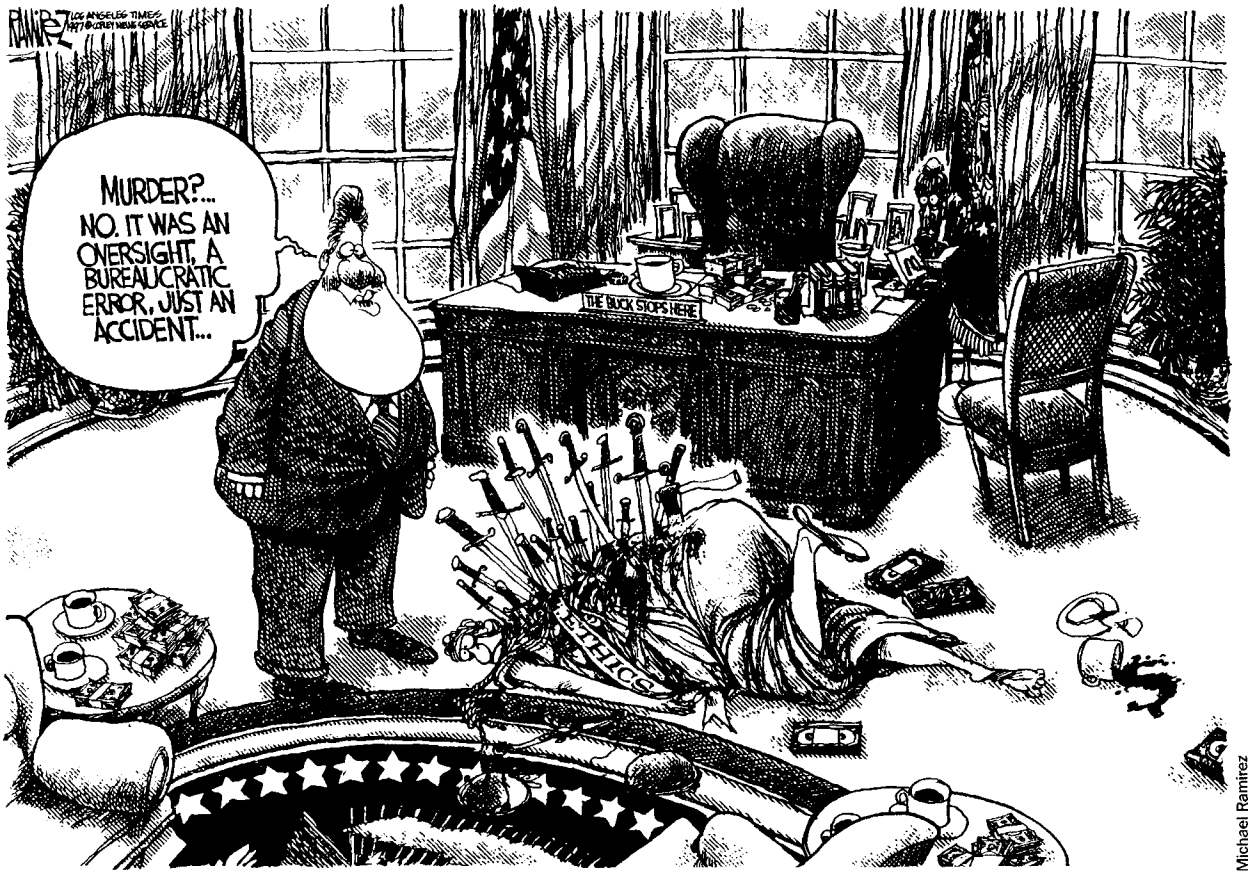
What is going to eventuate is this: The university is going to lose this case big-time. Explicitly race-based "dual-track" admissions procedures in American higher education—like those Ann Arbor has so obviously maintained—have been unconstitutional since the Supreme Court's 1978 *Bakke* decision. But in the meantime, what is Michigan's Republican governor, John Engler, going to say or do about this matter? Actually, nothing. You see, there's a Republican candidate for a Michigan state senate nomination who is volubly critical of race preferences at Ann Arbor. And the governor, his press spokesman lamely explains, doesn't want to "get involved or do anything to influence the primaries."

Maybe things are better in the nation's capital. Maybe pigs can fly.

This week, the Senate will debate reauthorization of the Intermodal Surface Transportation Efficiency Act, which has technically expired. ISTEA is the gigantic pot of highway and transit money the federal government sends to the states each year. The language of the law requires that "not less than 10 percent" of this money go to "disadvantaged business enterprises." The Department of Transportation regulations that govern implementation of this requirement certify a company as "disadvantaged" the same way the city of Houston's contracting program does: crudely. If a firm is owned by a woman or minority, it is mechanically qualified for preference.

Here, too, the Supreme Court has already ruled. In a 1995 case involving the ISTEA set-aside program, *Adarand* v. *Pena*, the court applied its earlier *Croson* principles to all procurement contracting with federal money. No group preference may be based on arbitrary presumptions. Any group preference instead must be justified with reference to conclusive and particularized findings of disadvantage and discrimination.

But the Clinton administration proposes to reauthorize ISTEA without change; that is to say, with the "not less than 10 percent" language still in force. And though the Department of Transportation claims to have adjusted its regulations to comply with *Adarand*, the claim is a bald-faced lie. The new regulations contain the same old vaporous presumptions. To contracting officers, they offer the following guidance: "You must not require an individual who are members (sic) of a designated group to demonstrate, in connection with his or her firm's application for certification, that he or she is, in fact, socially and economically disadvantaged."



Michael Ramirez

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Republican senator Mitch McConnell of Kentucky will offer an amendment to strip this atrocity from the ISTEA bill. McConnell's amendment will be opposed by the Republican senator who will manage the debate, Environment and Public Works Committee chairman John Chafee of Rhode Island. McConnell's amendment will fail. The Senate will approve a piece of unconstitutional legislation.

The Senate will also this week hold confirmation hearings on the man President Clinton has nominated to lead the civil rights division of the Justice Department. He is Bill Lann Lee, a career attorney with the NAACP. On paper, Lee is more than qualified for the job. Lee is also, however, directly implicated in an impressive list of race-preference controversies dating back two decades, from school busing in the 1970s right up to the legal counterattack on California's Proposition 209. And all the while, Lee has advanced a striking and rigid view: He has never met a race preference he didn't like.

You might think Bill Lann Lee's philosophy would warrant some extended discussion as the Senate considers his appointment to the nation's most important civil rights post. Especially given that this philosophy seems openly to defy our highest law, as the Supreme Court has authority to interpret it. But Orrin Hatch of Utah, chairman of the Senate Judiciary Committee, waited until the very last minute—this past Friday—before deciding whether to allow any opposition witnesses at Lee's confirmation hearing. He decided to admit such witnesses, after all. Two of them.

A depressing pattern emerges from all of this. The legal underpinnings of government-enforced and administered race consciousness have been sharply eroded. The erosion is bound to accelerate. Organizations like Washington's Center for Individual Rights, which is responsible for the University of Michigan case, have begun to sue race-preference malefactors—in this instance, the university's president—as *individuals*. That is a powerful tool. As is the bravery and intelligence of people like Ward Connerly and the two Michigan plaintiffs, who regularly face down poisonous insults from the institutions they are attempting to reform.

But through it all, Republicans, too many of them, *most* of them, are sitting on their backsides, keeping their powder dry, cultivating their nervousness, waiting until next year. This won't do. It won't do for a democratic country to lurch its way to colorblindness courtroom by courtroom, without the clear and resounding public debate an issue of such moment and principle demands. It won't do for Republicans to delay the prize of colorblindness, even for a moment, by silently ignoring the battle while it's waged. And, most basically, it simply won't do for Republicans to pretend they don't understand what the Constitution says. That's what we have Democrats for. One such party is more than enough.

—David Tell, for the Editors

The Janet Reno Follies

by Brit Hume

Janet Reno's daylong, rope-a-dope performance before the House Judiciary Committee October 15 was reported in the press as a clash between frustrated Republicans and an attorney general steadfast in her determination to say as little as possible about her investigation of the Clinton fund-raising scandal. She "rebuffed their assault" (*New York Times*), "held firm" (*Washington Post*), and "stood her ground" (*Los Angeles Times*). What such accounts missed, or were too polite to say, was that much of her testimony did not make sense. There were whole passages that were indecipherable, not just as a matter of law, but as a matter of English.

Consider her response to the videotape played at the outset of the hearing by chairman Henry Hyde over the protests of committee Democrats. It was an excerpt from Reno's testimony before a Senate committee in 1993 in support of renewing the independent-counsel statute, which, at the time, had lapsed. "There is," she said then, "an inherent conflict whenever senior executive-branch officials are to be investigated by the department and its appointed head, the attorney general. The attorney general serves at the pleasure of the president. . . . It is absolutely essential for the public and process of the criminal justice system to have confidence in the system, and you cannot do that when there is conflict, or an appearance of conflict in the person who is, in effect, the chief prosecutor."

In her opening statement to the committee, however, Reno explained her current hesitancy to seek an independent counsel in the fund-raising scandal as follows: "The statements I made back in 1993 that you showed on the film are the statements I have stood by. Congress enacted a law. It created a presumption of

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those people for whom a conflict existed. And it enumerated in a statute. And that is the inherent conflict with senior executive branches that you referred to in the film. When the statute is triggered with respect to those categories of covered persons, I have shown I will trigger it, and I have shown most recently, I will trigger it whether it is the president or the vice president or a cabinet member."

To the extent a point can be discerned in all that, it seems to be this: As Reno now interprets the independent-counsel law, when it comes to a criminal investigation of a president, vice president, or other "covered person," the law presumes that it's a conflict of interest for the attorney general and the Justice Department to conduct the investigation. At that point, the independent-counsel process is automatically "triggered." That begins the cycle of 30-day, then 60-day "preliminary investigations" that must precede the naming of an independent counsel. Thus Reno was proclaiming to the committee that she had "shown" she would do what, according to her, she had no choice but to do.

Michael Ramirez

Janet Reno

At the moment, she and her department are in the midst of separate preliminary investigations of both President Clinton and Vice President Gore. These investigations are thought to involve the narrow issue of whether either of these men made campaign solicitations from "official" or "public" places within the White House, something the attorney general said it was her "understanding . . . would represent a violation." Normally, all that's required to start the laborious independent-counsel process is a finding by the attorney general that there is "specific and credible" information constituting "grounds to investigate" whether a top official "may have violated" the law." That may not sound like a very high threshold, but Reno has carefully avoided going even that far. Instead, she has acted under a different provision of the independent-counsel law that says she may start a preliminary investigation when she is "unable to determine . . . whether the information is specific and from a credible source."

One might assume from this that she and her sleuths at Justice now have their magnifying glasses focused intently on their information about Bill Clinton and Al Gore to determine whether it's sufficiently "specific and credible." But to hear her describe it, she is looking for something much stronger. She spoke repeatedly of the need for evidence that "will stand up in court." "We must meet the highest standard of all," she testified. "We must convince 12 people beyond and to the exclusion of a reasonable doubt that a crime has been committed and that the person accused is guilty of a crime." This is true enough for most cases, but it has nothing to do with her task in determining whether an independent counsel is needed in the Clinton-Gore fund-raising cases. Indeed, under the law, neither she nor her department would ever prosecute such a case, since if it ever got that far, she would long since have been legally obliged to turn the matter over to an independent counsel.

Indeed, as a reading of the law makes clear, at this point she need not even decide that the evidence of crime by Clinton and Gore is "specific and credible." If she were to determine that it is, of course, she would be required immediately to seek an independent counsel. But if, at the end of the preliminary investigation, she were unable to decide the value of the information, she would still be obliged to seek the appointment of an independent counsel, unless she "determines that there are no reasonable grounds to believe that further investigation is warranted."

That would be a sweeping conclusion, especially in the midst of an investigation that she trumpeted to the committee as "massive," involving 120 lawyers and FBI agents, more than 500 subpoenas, and over a million pages of documents. Despite this mobilization, she has repeatedly been embarrassed by information that her investigators knew nothing about, most recently the existence of those White House tapes. Yet Reno still shows a remarkable will to protect her president.

Indeed one of the only times she wavered from her steely refusal to say anything specific about the facts of

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the case was when she was asked to react to the recently released videotape showing Clinton at a 1996 fund-raiser praising his "good friend John Huang" and saying he was "virtually overwhelmed" at Huang's success in organizing the $600,000 event. The fund-raiser was attended by such figures as Charlie Trie and Pauline Kanchanalak, both of whom have since fled the country. Much of the money raised was later returned because it came from illegal foreign sources. "When he told me this event was going to unfold as it has tonight," the president said of Huang, "I wasn't sure I believed him. But he has never told me anything that did not come to pass." When Wisconsin Republican James Sensenbrenner asked if this did not indicate the president "at least had knowledge of Mr. Huang's activities," Reno responded with something approaching indignation. "There is nothing in the statement that you provided to me just now that indicated that the president had any knowledge of any criminal activity. And to suggest that is to engage in the rumor and innuendo that we try to avoid in the Department of Justice."

Lanny Davis, the White House lawyer for damage control, could not have said it better. Still, Janet Reno may be past the point of no return on the road to an independent counsel. Unless she utterly absolves the president and vice president, the law leaves her little leeway to stop the process at this stage. She has now committed herself not to close any phase of the investigation without the concurrence of FBI director Louis Freeh, whose agents are known to be frustrated at the pace and direction of the investigation. Her commitment to act jointly with Freeh is about the only concession Reno made to the Judiciary Committee. Under the circumstances, it is probably enough.

Contributing editor Brit Hume is Washington managing editor of the Fox News Channel.

Norma Cantu Strikes Again

by Bruno Manno and Gregg Vanourek

President Clinton is supposedly a staunch supporter of the nation's charter schools—independently run, but publicly funded, institutions now numbering around 700. Indeed, he has called for the creation of 3,000 of them by decade's end. Meantime, his administration's Education Department is doing all it can to derail the charter-school movement. The latest example of the department's hostility came a few weeks ago, when the Boston office of the department's civil-rights division took action against the Boston Renaissance Charter School.

The school, which is managed by the for-profit Edison Project on behalf of the non-profit community group that obtained a charter from the state in 1995, enrolls over a thousand students from kindergarten through 8th grade. It's one of the country's largest and most celebrated charter schools. Three-quarters of its students are minority; 12 percent are disabled.

Last spring, the Education Department's Office for Civil Rights (OCR) received a complaint from a family that the school had transferred a misbehaving 5th-grade girl from one class to another because she was black. After thorough investigation, OCR found no evidence that the transfer was racially motivated. But during its investigation, OCR agents concluded nonetheless that the school's staff was insufficiently sensitive to racial diversity. Accordingly, the school is now required to "submit to OCR for its review and approval a plan for mandatory training for school employees on the subject of racial and ethnic sensitivity."

Meanwhile, the Massachusetts Advocacy Center filed a disability-discrimination complaint with OCR, charging that a family was forced to withdraw its son from the school after a teacher transferred him out of her classroom without notifying the family. While the school had bent over backwards trying to cope with the extremely disruptive student, it made a few minor procedural mistakes. For example, Renaissance failed to notify the parents of their rights under federal law (although it *did* notify them of their rights under state law). School officials did not consult them about the boy's classroom transfer until after the fact. And on several occasions the school improperly shortened his school day (i.e., sent him home at noon) because of his "aggressive or dangerous behavior."

But overall, Renaissance appeared to be in compliance with federal and state special-education law, and in any case the boy's *parents* wouldn't let him be evaluated for eligibility for special-education services. No matter; OCR determined the school had acted in violation of the Rehabilitation Act of 1973, which deals in part with disabilities in education. OCR used the act to force Renaissance into an agreement that gave the department effective oversight of the school's entire special-education program. So much for the idea of

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independent charter schools, free from the regulatory micromanagement that plagues conventional district schools.

Cases like this are not uncommon at regular public schools. The Education Department investigates hundreds each year. But the question arises whether Clinton appointees at the Department of Education—egged on by disability lobbyists who cannot abide the possibility that some schools might approach special education differently from others—are on a seek-and-destroy mission when it comes to charter-school innovation and independence.

Operational freedom in exchange for improved results is the central concept of charter schools. They're *meant* to be different from regular public schools, and from one another. Surveys and interviews make plain that they're enormously popular with teachers, students, and parents—notably the parents of disabled youngsters, many of whom seek something other than the cumbersome, formalized, label-crazy procedures of conventional special education. Virtually every one of Massachusetts's 24 charter schools has a waiting list, including Boston Renaissance (which has a waiting list of 1,700). In response to such demand, the state legislature recently agreed—over teacher-union protests—to raise the number of charter schools to 50.

Kevin Chadwick

Norma Cantu

But every drop of freedom that a charter school enjoys is a threat to some interest group's regulatory regimen and some bureaucracy's raison d'être. Re-regulation poses as great a danger to charter schools as does political opposition to their creation. It's subtler and more pernicious, not least because it can often be presented as a response to some complaint, shortcoming, or inadequacy. If what happened in Massachusetts last month becomes a precedent, we might as well bid farewell to charter schools as a viable education-reform strategy.

No regulatory agency in America is more determined to keep all the nation's schools and colleges under its thumb than the Education Department's Office of Civil Rights, which has embarrassed the Clinton administration on several earlier occasions. Indeed, its assistant secretary for civil rights, Norma Cantu, is becoming famous for her witch hunts and fishing expeditions. In New York City, where an all-girls school has just opened, she has admonished the Board of Education either to admit boys or to establish a separate program for boys only. (Schools chancellor Rudy Crew has said that if the Education Department imposes its will on the school, "We'll just take this to court.") She also sought, in an episode that embarrassed the administration, to compel universities in Texas to disobey the Supreme Court following a recent decision.

As in all these cases, in the Renaissance School dispute, Cantu had plenty of accomplices. Thomas Mela, OCR's senior attorney in Boston, is a former employee of the group that sued the school, the Massachusetts Advocacy Center. And in an interview with the *Boston Globe,* Tim Sindelar, a senior lawyer with the Disability Law Center in Boston (partially funded by the U.S. Department of Education), warned all charter schools nationwide to take note of the precedent established by this case.

As a result of this ordeal, special education could become the means by which the education establishment and regulatory activists tie charter schools in knots. Ironically, the main reason families choose to enroll disabled children in charter schools is that the rule-bound and procedure-heavy regular schools are not meeting their needs. Parents opt for charter schools precisely because they do things differently, yet the latest revision of the federal special-education law—passed overwhelmingly by the GOP Congress and gleefully signed by President Clinton—says that charter schools must "serve children with disabilities in the same manner as other public schools." So charter schools are caught between a rock and a hard place—between families seeking alternative strategies for educating their children and rigid federal requirements.

In a Hudson Institute survey of 2,978 charter-school parents in 1996-97, we found that two-thirds of the parents of disabled youngsters said that their charter school's curriculum and teaching were better than

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those of the school their child would otherwise be attending. Furthermore, special-education students appear to be making academic gains in their charter schools. After switching to a charter school, parents of special-ed youngsters reported a 21 percent increase in children performing at "excellent" and "above average" levels and a 33 percent decrease in children in the "below average" and "poor" categories.

That so many special-education students appear to be thriving in charter schools is encouraging. Thus it is all the more important to resist the assault on charter schools from Cantu's Education Department and the education establishment.

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Dems and Taxes

by Matthew Rees

"THE INCOME TAX SHOULDN'T BE a full-employment program for accountants and economists," says a leading tax reformer in the House of Representatives. "The lobbyists who have rigged our tax code for decades" must be curbed, he says, and tax forms made so simple they are "printed on a small postcard." The goal of this reformer, who sometimes likens himself to Jack Kemp, is to "slash tax rates across the board for all Americans" and to subject any tax increase to a national referendum. The IRS? He would have it dwindle "to little more than a mailing address."

That's not Dick Armey speaking; it's Dick Gephardt, populist leader of the House Democrats and Al Gore's likely opponent for their party's presidential nomination. Lately Gephardt has resurrected his goal of overhauling the tax code. He wants 75 percent of Americans to devote no more than 10 percent of their income to federal taxes, with the rest paying between 20 percent and 34 percent. He also wants to eliminate every deduction, credit, exclusion, and adjustment, with the sole exception of the home-mortgage-interest deduction.

Gephardt is likely to use tax reform as a club not only to beat up Republicans in next year's congressional elections but also to clobber Gore in the presidential primaries. It may be a winning issue. In their zeal to overhaul the tax code and move to a single tax rate—whether through a flat tax or a national sales tax—Republicans open themselves up to withering attacks from Democrats and perhaps some Republicans (as Steve Forbes learned in last year's presidential primaries). These attacks have so frightened the GOP that instead of proposing across-the-board tax-rate reductions in this year's budget, Republicans adopted Clinton-style targeted tax cuts. Similarly, Gore sits in a White House fundamentally uninterested in tax reform. Treasury secretary Robert Rubin, the most influential administration opponent of overhauling the tax code, recently asserted that it's IRS officials "who basically fund our federal government." This attitude won't help when Gore wants to convince New Hampshire's anti-tax voters he's one of them.

Gephardt is one of the few congressional Democrats saying anything at all about tax reform. Sen. Bob Kerrey of Nebraska has advocated cutting the payroll tax and is a leader in IRS reform, but it's an open question whether many other Democrats will join this effort. In the aftermath of the budget deal, few have turned their attention to the tax code. In fact, most Democrats want not sweeping tax reform but higher rates for corporations and wealthy individuals. Many share the suspicion of Brookings Institution economist William Gale that "a lot of the tax-reform movement is a disguised tax-cut movement."

True, but that didn't stop Gephardt from asking Armey and House speaker Newt Gingrich to let Democrats join in the GOP tax-reform debates being held around the country. Neither Armey nor Gingrich has bothered to respond to Gephardt's letter, and one of their allies, Rep. Billy Tauzin, a leading sales-tax advocate, insists "nothing short of total reform is even worthy of debate." If Republicans continue to shut Democrats out, says Gephardt, "maybe we'll follow them around the country with a Democratic fair-tax caravan."

Some GOP tax-reform advocates say the GOP should work with Gephardt. "Tax reform is too big an issue to be done in a partisan way," says supply-side economist Bruce Bartlett. The Cato Institute's Stephen Moore notes that two previous shake-ups of the tax code—the 1981 tax cuts and the 1986 tax simplification—were possible only with Democratic cooperation. Moore suggests it's a mistake for GOP tax reformers to ridicule Gephardt's proposal—Armey derides it as "about as flat as the Rocky Mountains"—because "it may actually be a small step in the right direction." Yet so far Republicans have indicated an interest in trying to push tax reform on their own. This exclusivity could do for them, says Brookings

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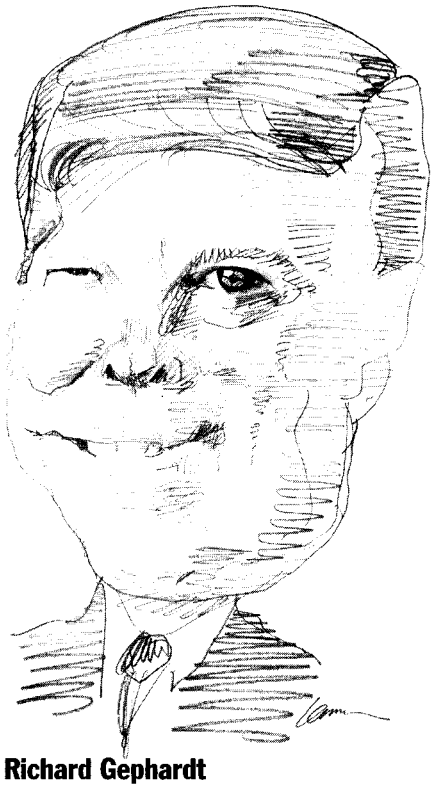
economist Robert Reischauer, what health care did for Clinton and the Democrats.

The other reason Republicans should try to work with Democrats is that Gephardt may be serious about wanting tax reform. He and Bill Bradley sponsored the proposal that became the 1986 Tax Simplification Act and resulted in a two-rate tax code. Gephardt, in other words, has a track record on tax reform; and as the House Democratic leader, he wields considerable influence with his colleagues. If a bipartisan tax-reform coalition is to grow, it's Gephardt who will make it happen.

Listening to Gephardt zing Republican tax-reform plans injects a dose of political reality into the GOP's fanciful debate over whether America would be better off with a flat tax or a national sales tax. Gephardt calls the flat tax the "biggest rip-off of the century." "Just imagine," he told me, "if you went to a 17 percent flat rate [the Armey proposal], what a huge benefit that would be for people at the top, lowering their taxes, while the people in the middle and people trying to get into the middle would have a huge tax increase to pay for the huge tax break for the people at the top." Almost in the same breath he deplores the "giant, huge sales tax," which he charges "would be highly regressive and difficult for middle-income and poor taxpayers."


Kent Lemon

Richard Gephardt

The sheer complexity of sweeping tax reform, coupled with the Clinton administration's opposition, makes a major overhaul unlikely for the next few years. There is, however, a strong chance of IRS reform. "It has to be done soon," says Bob Matsui, an influential Democrat on the House Ways and Means Committee. He favors cleaning up the tax code, but says the IRS will come first. Gephardt agrees. Shortly after the Senate's IRS hearings, the minority leader told CNN that "what's been happening with the IRS is an outrage, and it must stop." He and the rest of the House Democratic conference met with Rubin on October 9 to discuss fixing the IRS. They're smart to jump on the reform bandwagon: A recent Fox News poll showed 78 percent of *Democrats* agreeing the IRS has "too much power."

For Republicans, the downside of pushing IRS reform is that it could dampen enthusiasm for immediate tax reform. Bartlett notes that if voters are convinced the IRS has been revamped, they may be willing to wait for major changes to the tax code. Another potential obstacle for Republican tax radicals is the state of the economy. "One argument for tax reform has been to build a stronger economy," says Reischauer. "That argument isn't as compelling when you've got healthy economic growth and 4.9 percent unemployment."

GOP tax reformers, in other words, face a dizzying array of hurdles. Could this lead them to trim their sails and perhaps build a coalition with Democratic reformers like Gephardt? It could, but it probably won't.

Matthew Rees is a staff writer for THE WEEKLY STANDARD.

MEDISCARE CROW

by John Merline

IN RECENT WEEKS, REPUBLICANS have been blasted in certain conservative quarters for caving in to the White House on Medicare. The charge? That they allowed the administration to slip a provision into the budget deal that effectively stripped senior citizens of their right to contract privately with doctors. A *Wall Street Journal* editorial complained that, under the provision, seniors enrolled in Medicare "will have less freedom than elderly British citizens" (who, of course, live under socialized medicine). Steve Forbes has made the same complaint a central feature of his criticism of the budget deal.

The complaint is exaggerated. This is unfortunate

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because it obscures the far more important fact that, in the war between Republicans and the White House over Medicare, the GOP has mostly won—though you'd hardly know it.

To understand the current state of Medicare politics, go back to the autumn of 1995. The Republicans offer up dramatic Medicare reform as part of their balanced-budget plan. President Clinton and the rest of the Democratic party jump all over it, denouncing it as a savage attack on the elderly. Clinton vetoes the plan, then, in the presidential campaign the next year, boasts that he prevented "excessive cuts in Medicare." The White House and its allies spend millions on the issue, with almost no response from the GOP. Rep. Charles Rangel, the feisty Democrat from Harlem, tells Republicans that they "ought to be ashamed of what you're doing to the American people." Rep. Pete Stark speaks of the GOP's "urge to destroy Medicare." Sen. Jay Rockefeller moans, "I have no idea how I am going to explain the damage done to the seniors of West Virginia . . . by this Medicare cut." Rep. John Lewis of Georgia sums up the Republican effort this way: "A scam, a sham, and a shame."

Now fast-forward to the spring of this year. Republicans—mounting a full-scale retreat on practically every other issue—introduce almost exactly the same Medicare bill. But this time, most Democrats vote for it—including Rangel, Stark, Rockefeller, and Lewis. Clinton gladly signs it. And the press, for the most part, ignores the flip-flop.

Today, Democrats insist that the bill they supported was far milder than the one proposed two years before. But when you look at savings in the first five years of each plan, they are nearly identical: $119 in the old plan, $115 in the new. And most of the cuts come from the same place—doctors and hospitals that treat Medicare patients. Yet, two years ago, the Democrats assailed these cuts as "devastating" and "heartless."

So too with the structural changes of the two plans—another sore spot with Democrats in 1995. They were essentially the same. Under the new law, seniors will be able to choose from a menu of private-insurance options, including Medical Savings Accounts, with the premiums paid for by Medicare.

"In the majority of cases, the bill signed into law is quite similar to the one proposed two years ago," admits John Rother of the American Association of Retired Persons. Either by design or accident, the GOP played the issue almost perfectly. Democrats directed their assault at a last-minute Senate effort to tack on means-testing of Medicare's Part B premiums and a boost in the eligibility age. These were never central to the reform and were painlessly forfeited.

So why so little attention? The press seemed bored or distracted. With Clinton basically on board from the beginning, there was no high-stakes battle, and no election hanging in the balance. So why sweat the details?

What's more, Republicans seemed loath to crow about their success, noting instead that, this time around, it was a bipartisan effort, and trumpeting some new preventive-care benefits. Speaker Newt Gingrich did at one point during the negotiations say that the new Medicare bill was, if anything, more conservative than the old one, but he delivered his remarks in a closed meeting of conservative activists. A June report from the Senate Republican Policy Committee took note of the Democrats' flip-flop; Republicans didn't push it.

It's possible that Republicans didn't want to let the cat out of the bag, but even after Clinton signed the bill on August 5, they did little to score points against the Democrats who had savaged them less than a year before. Only Dick Armey, the House majority leader, permitted himself a moment of public satisfaction: "It is the vindication of the Republican party," he said, "for the vilification they were subjected to in 1996."

Now, though, Republicans find themselves on the defensive against the Right. That *Wall Street Journal* editorial criticized them for a provision that allows seniors to contract privately with doctors only if those doctors agree to opt out of Medicare entirely for two years, making any such contracts unlikely. The *Journal* said, rightly, that no such restrictions existed in the old law. But the Health Care Financing Administration (which runs Medicare) for years sent letters to doctors warning them that if they dared accept private money, they would be "subject to sanctions such as civil monetary penalties and exclusion from Medicare." Naturally, few doctors cared to test the agency's resolve.

When word of HCFA's tactics reached Sen. Jon Kyl, Republican of Arizona, he decided to add an amendment to the Medicare bill stating clearly that the law would allow private contracts—no ifs, ands, or buts. The White House was able to neuter that amendment with the two-year restriction. In effect, the final bill codified the status quo.

That status quo may be bad, but here too, the GOP may yet win one. Kyl and other Republicans are pushing to revise the private-contracts provision. By raising the stakes on this issue, Republicans could end up forcing Clinton to stand publicly against letting seniors make their own arrangements with doctors. Republicans will win that fight. And then? There will probably be yawns all around.

***John Merline is the Washington bureau chief of* Investor's Business Daily.**

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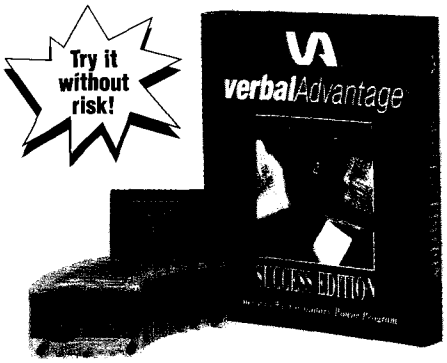

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POLITICALLY INCOMPETENT

The Talk Show to End All Talk Shows (Alas)

By Andrew Ferguson

Let's stipulate right at the outset that there's no people like show people, but I don't think it's a news flash to point out, in addition, that show people are pretty dumb. They can be magnificent at dancing, singing, telling jokes, or emoting; wildly creative at lighting a tableau or making the camera jitter the way it does on *ER*; ingenious in the mystical arts of marketing and dispersing royalties. But when it comes to the higher human faculty that adults outside Hollywood call ratiocination, the ability to have sequential thoughts that flow logically one from another, show people are like no people I know.

Here, for example, is the actor/writer/singer/boytoy Dweezil Zappa, son of the late and more conventionally named Frank, chewing over the case of a Vietnam-era deserter who escaped to Canada and recently requested amnesty:

"I mean, it's so long ago, this war, because to me, like I was born in 1969, and so this whole thing to me, obviously, I was not around to feel the, you know, emotional fervor of what everyone was, like, experiencing on both sides of this war, so to me, at this point, I don't see that any major punishment is necessary."

Here, for another example, is the actress Sally Kellerman on the tribulations of Marv Albert:

"Oh, man, I never wanted to be somebody who sits around and is laughing, because it is so sad. I don't think anybody should force anybody to do anything. I mean, but it's like our world is becoming so exposed that we are seeing that everyone is, like, as weird as you—or I mean myself."

And here—and then I'll stop, I promise—here is the producer and director Garry Marshall, the creator of *Happy Days*, on the Family and Medical Leave Act:

"It's the times, it's the nineties, it's the time when you have kids you get benefits. . . . From the caveman days, they kind of take care of people, the children and the women they took special care of, through the Greeks, the Romans, through who knows, whatever, through revolutions. So why now, suddenly, why are we going to do some special thing now and say we're all equal?"

IT IS WITHOUT QUESTION THE MOST POPULAR CHAT SHOW ABOUT POLITICS NOW ON THE AIR. THIS IS NOT GOOD NEWS FOR POLITICS.

Had enough? Then clearly you are not one of the millions of viewers who enjoy *Politically Incorrect*, the political talk show from which all of the above quotes are taken. *PI* follows *Nightline* on ABC. No less an authority than *TV Guide* has called it "the best talk show on television"—think of it: better than Sally Jesse, *better than Charles Grodin*—and its unexpectedly strong ratings suggest that much of late-night America agrees. The show's host is a former second-tier comic called Bill Maher. Five nights a week he and his bookers bring to a Los Angeles studio a quartet of guests: not merely twinkies from the world of show biz, but also Washington pundits and policy wonks, professional pols, the authors of self-help books and other potboilers, foam-flecked radio-talk-show hosts, and such unclassifiables as Kato Kaelin and Arianna Huffington. Inevitably, television critics have ranged from calling the show "*The McLaughlin Group* after a few beers" to "*The McLaughlin Group* on acid." (TV critics tend not to have a wide range.) With the exception of *Nightline*, *PI* is unquestionably the most popular chat show about politics now on the air, with almost as many viewers than *This Week* and *Meet the Press* combined. This is not good news for politics.

Andrew Ferguson is senior editor of THE WEEKLY STANDARD.

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Commercial television is only a half-century old, but in the dog years of pop culture, five decades constitute a millennium, and thus many people have come to mythologize a dimly receding golden age of TV. Maher claims this honored lineage for *PI*. He has said the show is a throwback to pre-Leno talk shows, when Johnny Carson and Jack Paar would mix the gags with serious palaver among an eclectic panel of guests. And indeed Maher opens the show with a monologue straight out of the Carson playbook; he even has Carson's mannerisms, though he seems fonder of masturbation jokes than Carson was. After the monologue Maher seats his guests in leather arm chairs on a set ringed with Ionic columns and pelts them with subjects for discussion. Some are large and serious (welfare reform), some are jokey ("Should politicians steal a little?"), others are lifted from the morning headlines. All are meant to provoke Dweezil Zappa, or Tom Arnold, or Bob Dornan, or another of Maher's frequent guests to thoughtful and amusing comment. "There's a lot more meat on our bone," Maher told *Entertainment Weekly*, "stuff for people to think about."

© Sean Delonas

Maher is right to claim the old *Tonight Show* as a progenitor, though not in the way he thinks. There were always moments on the old *Tonight Show* when a guest—Rod Steiger, say, or Tony Curtis—would straighten his back without warning and grow dangerously thoughtful, launching an unbidden discourse on some hefty topic of the day: Vietnam, nuclear energy, race relations. The tone would be indignant, smug, bellicose, and, shall we say, less than thoroughly informed. The ensuing minutes were invariably cringe-inducing, as Carson tried to shush the fulminations. He knew, as the audience knew, that the opinionizing guest was violating an unwritten compact of traditional show biz: We agreed to listen to the guest sing or tell jokes or drop anecdotes about his dear friend "Dick" Burton, and in return the guest agreed to shut up when it came to anything serious. A show-biz personage bitching about Vietnam was a breach of etiquette, a belch at the dinner party.

Imagine now a half-hour's worth of such moments, night after night. Maher, the student of '50s and '60s TV talk, has made them the premise of his show—a kind of "Worst of Carson" in concentrated form. *Politically Incorrect* can be excruciating to watch. There are incidents of explosive freakishness. The exhibitionist comic Sarah Bernhard once spat at the right-wing newsletter-writer John Lofton, for example, and the TV producer Steven Bochco once threatened to punch out Chevy Chase. These altercations can be perversely entertaining—who among us wouldn't like to see Chevy Chase get beaten up?—but they are relatively rare. More often, to judge by the dozen or so shows I've watched on tape the past few days, the pace is plodding, as host and guests struggle to figure out what it is they're talking about. Maher introduces an issue for discussion by reading a smattering of facts off an index card prepared by his staff. This is surely helpful, because it quickly becomes clear that at least half his guests on any given night haven't read a newspaper since the Gulf War. (Who won, by the way?) Discussions tend to fizzle out. "What did he do, exactly?" one guest asked Maher, after the host raised the subject of Sgt. Maj. Gene McKinney's alleged sexual misconduct. "Wasn't it consensual?" Nobody seemed to know.

On your average boring political talk show, the host can be relied on to referee such confusions. Not Maher—although he'd like to be the thinking man's comedian, a Mort Sahl or Lenny Bruce, simultaneously hip and well informed. "Bill is an intellectual who doesn't let it be known," says Kato Kaelin. Ralph Nader calls him "a first-rate social satirist." When Kato Kaelin praises your intellect and Ralph Nader admires your sense of humor, you're bound to get a swelled head. Self-satisfaction is the primary trait of Maher's on-air persona. Surrounded by idiots, he knows he can't help but look smart. Politically, Maher's instincts are libertarian, with a rightward tilt—the cut-the-crap views of the vaguely ticked-off American male. He's pro-choice and pro-death penalty. He hates the National Endowment for the Arts and the rise of the "victim

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culture." "Now people sue over everything," he said in a *Playboy* interview this summer. "Everyone sees himself as a victim, which takes away from people who are real victims. I remember reading about the many 'victims of silicone implants.' I'm sorry for women who had a bad tit job. But is it the same thing as losing a leg fighting for your country? That's a victim." He calls himself a "reluctant conservative"—a conservative, that is, who wears Armani suits and tells interviewers how much he enjoys masturbation.

And he really does believe there's meat on his show's bone, if you'll forgive the expression. Though he demurs that *PI* is primarily entertainment, he holds more elevated ambitions for it, too. *George* magazine says that *PI* "wants to change the way Americans view politics," and Maher seems to agree. He gives off a trace of uplift when he speaks of his show's "small contribution" to rousing the slumbering American public from its apathy. "It would all be worth it," he told *U.S. News*, "if this show could in some way help make an interest in current affairs cool."

IN THE COOL WORLD OF *POLITICALLY INCORRECT*, THE VALUES OF SHOW BIZ MUST TRUMP THE VALUES OF POLITICS.

God knows I hate to sound uncool, but there's a slight problem here. "An interest in current affairs" isn't cool—cannot be cool, in fact. An active curiosity about the world of public affairs demands that you take things seriously, or at least semi-seriously, and seriousness in our ironic age is the very antithesis of the cool sensibility. The roundtables on *PI* offer a perfect illustration. The night after this year's Emmys telecast, Maher brought together Joan Rivers, the actress Lea Thompson, a TV producer named Dick Wolf, and the Washington journalist Terry Jeffrey. This is a pretty typical *PI* line-up: a comic, a cutie, a Hollywood powerhouse, and, from Washington, a single person who knows what he's talking about and who becomes, perforce, a bizarre curiosity and figure of fun.

Jeffrey began by making an intelligent point about the inadequacy of the TV ratings system, citing the moral squalor of the Emmys show as an example: Accepting an award, Ellen DeGeneres had used the broadcast to advance her case for the delights of lesbianism. Before Jeffrey could press his argument further, Joan Rivers shot out of her chair, hopped across the set, kissed Lea Thompson with a maximum of slobber, and then turned to make goo-goo eyes at Terry Jeffrey. The audience bellowed and guffawed, Maher cut to a commercial, and the discussion was over. Jeffrey was a good sport about it—I suppose he didn't have much choice—but there was no question who won the moment: game, set, and match to the lady with the facelift.

In the cool world of *Politically Incorrect*, the values of show biz must trump the values of politics: argument, appeals to history, the mustering of facts. Since everyone's opinion is inherently as valuable as everyone else's, the effort that goes into constructing an informed opinion—reading a book, say, or even a newspaper—is simply superfluous, a mug's game, a diversion for dorks. The bimbo from *Baywatch* will top the pocket-protector geek from D.C. every time. "I'd have Charo on [the show]," Maher told *Playboy*. "Anybody in a democracy has the right to vote and therefore should have the right to an opinion."

Of course, who needs Charo when you can get a genuine Ph.D. like Jean Houston, the California mystic best known for putting Mrs. Clinton in touch with Eleanor Roosevelt? She appeared on *PI* after the death of Princess Di. "This was a kind of passion play," Dr. Houston said, "of wounding, of death. And then she resurrects herself, and she creates a new world where she goes out and she's vulnerable and available, and she allows others to be vulnerable and available. This is a new story for humankind." Dr. Houston's analysis was infinitely more thoughtful and allusive than what you normally hear on *PI*. But it was still stupid.

Maher is fully aware of this kind of criticism and waves it aside. "The Washington media establishment hates me," Maher told *U.S. News*, "and I'm not fond of them. They think that I have no business interloping on their area. They think, 'We're the ones who sit around and talk about national affairs; not you, Comedy Boy.'" But Comedy Boy has other concerns. The show is a hit but not a blockbuster. Bill Maher has taken political talk about as far as it can go—as far down or as far out, depending on your taste. "*Politically Incorrect* may not be mainstream America's cup of tea," says Maher. Too brainy. And he's likely right. Given a choice between being cool and cultivating an interest in current affairs, Americans choose cool. *Politically Incorrect* is too brainy for America.

Repeat that sentence to yourself, and shudder for your country. ♦

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Abortion and Taxes in Virginia

The Ghost of Lee Atwater Haunts the Governor's Race

By Fred Barnes

In the 1989 governor's race in Virginia, media consultant Robert Goodman produced a powerful anti-abortion TV ad for Republican Marshall Coleman. It showed a baby taking his first steps, as an announcer criticized Democrat Douglas Wilder for backing legalized abortion, even in extreme cases like gender selection. The ad would have put Coleman on offense on the abortion issue, but it never ran. Lee Atwater, then Republican national chairman, intervened and kept the ad off the air. It clashed with his iron rule that whenever abortion is a major topic of discussion in a campaign, it hurts the GOP candidate. According to Atwater, the less said about abortion, the better. The issue lingered, however, and without the ad, Coleman was vulnerable to Wilder's criticism on abortion. Wilder won.

Jim Gilmore, this year's Republican candidate for governor, is in a similar situation. Like Coleman, he is basically pro-life, but his opposition to abortion is hedged. Like Coleman, he is under sharp attack for favoring a ban on abortion, at least after the initial two or three months of pregnancy. And like Coleman, Gilmore is desperate to change the subject. Thus, two weeks before Election Day, he is in what his aides call "the parry and thrust mode," attempting to dodge Democrat Don Beyer's criticism on abortion and to push the tax issue forward instead. This follows from another Atwater rule: Whenever taxes are the dominant issue, it helps the Republican candidate. If Gilmore is successful in reviving the tax issue—the centerpiece of his candidacy is the abolition of Virginia's loathed personal-property tax on cars and trucks—he's all but certain to win.

Kent Lemon

Don Beyer

Gilmore may win anyway. "He has a demographic advantage because he's a mainstream conservative in a conservative state," says Gilmore pollster John McLaughlin. In statewide races, there's a "big time" GOP tilt, maybe six to eight percentage points, argues Susan Platt, Beyer's campaign manager, who's eager to lowball his chances. Republican George Allen was elected governor in 1993 in a landslide. Bob Dole won the state over Bill Clinton last year. True, Ollie North lost to Democratic senator Charles Robb in 1994, but the state GOP was badly split. Now, Sen. John Warner, who refused to back North, is vigorously supporting Gilmore. In TV ads, he lauds Gilmore for "honesty, integrity, character"—and for proposing to kill the personal-property tax. "The fundamentals favor Gilmore," says Larry Sabato of the University of Virginia, whose specialty is Virginia politics. The economy is strong, the incumbent GOP governor (Allen) is enormously popular, and most voters say the state is moving in the right direction. Allen, by the way, is set to stump full-time for Gilmore in the last two weeks of the campaign.

Still, there's the abortion issue. Gilmore, 48, who resigned as attorney general last June to run, takes the fine-tuned position favored by Republicans who are queasy on the issue. It's designed to satisfy pro-lifers without provoking pro-choice voters. Gilmore says abortion should be legal in the first 8 to 12 weeks, but he's hazy about the status of abortion after that. Should it be banned? In a television spot, he says the

Fred Barnes is executive editor of The Weekly Standard.

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Supreme Court "has spoken. No one's going to ban abortions." But in the same ad he adds, "I won't support late-term abortion." He also opposes taxpayer-funded abortion and says, "I'll make sure parents are involved whenever a minor child needs to face the terrible decision that abortion involves."

This many-sided package roughly matches what polling data indicate is the view of most voters. So, logically, it should minimize criticism of Gilmore on abortion. It doesn't. Rather, it has whetted the appetite of the Beyer campaign. Beyer's TV spots concentrate on zinging Gilmore as a pro-life extremist, and Platt says abortion alone could swing the election to Beyer. Targeted are 60,000 women in the Northern Virginia suburbs of Washington, mostly moderate Republicans and independents. They abandoned Coleman in 1989 and Ollie North in 1994, and Beyer needs most of them to defeat Gilmore. To win statewide, a Democratic candidate normally must get 55 percent in the D.C. suburbs, but Beyer has been running only even with or slightly behind Gilmore in the region. Gilmore's strategists agree the 60,000 women are pivotal. And, in defiance of the Atwater rule, Gilmore is airing two TV ads to assuage their fears on abortion. However, the ads are reactive ("My opponent's not being honest with you on the very personal matter of abortion"), show Gilmore rather than a baby, and don't come close to putting him on offense.

Jim Gilmore

Kent Lemon

By hedging his position, Gilmore has caused himself more problems than he's solved. If he had simply backed a ban on abortion except to save the life of the mother, as Ronald Reagan did, he could have avoided relentless probing of his position by the press. That, in turn, has kept abortion in the forefront of the campaign. I asked Gilmore whether he wanted to overturn *Roe* v. *Wade*. It's an obvious question, since *Roe* requires abortion to be legal at least until viability (22 to 26 weeks). Unless *Roe* were reversed, Gilmore wouldn't be able to change Virginia law to restrict abortion to the first 8 to 12 weeks. So he wants *Roe* tossed out, right? He wouldn't say.

He's not always so reticent. Twice, Gilmore has created flaps by commenting on abortion-related issues. He told an interviewer he favored parental consent, not merely notification, for a minor to have an abortion. Were he on record backing an outright ban on abortion, this wouldn't have come up. As it was, he spent several days explaining that consent has always been his position, though in his TV spots he advocates "parental involvement." Later, a television reporter asked if he favors a law requiring a woman to notify her husband before having an abortion. Gilmore said the idea deserved "serious consideration." Four hours later, he issued a statement saying spousal notification was unconstitutional and thus he wouldn't consider it. The next day, he went further in a debate with Beyer. Even if it were constitutional, he wouldn't support spousal notification. The episode got major media play for two days.

The *Washington Post*, the dominant paper in Northern Virginia, deserves special mention on abortion. Its reporters have been obsessed with the issue. When Gilmore momentarily considered spousal notification, it got front-page treatment. The *Post*'s story on the debate the next day led with Beyer's charge that Gilmore's "initial support" for notification "amounted to an anachronistic insult to the state's women." On other issues, too, the *Post* has leaned in Beyer's favor. After Gilmore denounced Beyer for giving regional authorities the power to tax, the *Post* published a story under this headline: "Beyer's Position on Regional Taxes Has N.Va. Backers."

Potentially more damaging to Gilmore was the *Post*'s coverage of Beyer's accusation, in an October 6 debate, that Gilmore had approved 35 plea agreements with child molesters when he was a prosecutor in suburban Richmond. Child molesters let back on the street, Beyer said, "molest more children, they destroy more families. What were you thinking, Jim, when

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you did those 35 plea agreements with child sex molesters?" Gilmore, looking puzzled, responded in general terms about plea bargaining. The next day, Beyer backtracked, conceding there were only 9 such cases; in the others, prosecutors were free to seek tougher sentences. The *Post* didn't get around to reporting Beyer's egregious mistake until October 11 and then buried the story inside the local section. Had the roles been reversed—with Gilmore, the Republican, botching an explosive attack on Beyer, the Democrat—would the *Post* have waited so long to report the matter? Republicans doubt it, and so do I.

Despite the blunder, Beyer, 47, a Volvo dealer and lieutenant governor since 1989, is an artful campaigner. "The similarities with [President] Clinton are scary," says a Gilmore adviser. Like Clinton, Beyer has adjusted his positions rightward to appeal to a conservative electorate. When Gilmore proposed to phase out the car tax, Beyer initially called it irresponsible. In July, though, he proposed his own cut in the personal-property tax. Beyer also insisted he played a large role in revoking parole in Virginia. Allen, who had campaigned on this issue in 1993, was awakened at 3 a.m. while on a trip to Japan and told of Beyer's claim. He quickly released a statement disputing Beyer. Naturally, Gilmore accuses Beyer of flip-flops. And, to the *Post*'s credit, it explored this theme extensively in its page-one profile of Beyer, noting his friends "acknowledge that at times he can appear indecisive and too reliant on polls."

Indecisive and poll-driven? Sounds like Clinton, who has raised clever political positioning to a high art. Beyer isn't as adept at it. For one thing, he lacks Clinton's warm ties with black voters. Former governor Wilder, the state's most prominent black politician, has been standoffish toward Beyer and suggested Gilmore would be acceptable as governor. If Wilder fails to endorse Beyer, that is bound to suppress the black vote, says Sabato, the expert on Virginia voting patterns. And it would make a Gilmore victory all the more likely—that is, absent further complications for Gilmore on abortion. ♦

Vince Foster, in the Park, with the Gun

Yes, He Committed Suicide

By Byron York

When Whitewater independent counsel Kenneth Starr finally released his report concluding that deputy White House counsel Vincent Foster committed suicide—the same conclusion reached by previous investigations—he immediately came under fire from leading Foster conspiracy theorists. "This is a joke, and a bad joke," Reed Irvine of Accuracy in Media told the *New York Times*. "It's far worse than the Fiske report," produced by the first Whitewater independent counsel. Christopher Ruddy, a journalist who has devoted three years to questioning the official findings and has now published his own version of events in *The Strange Death of Vincent Foster*, wrote that Starr's report "carries little credibility" and "will only propel arguments that a government cover-up of Watergate proportions has taken place."

Such criticism is hardly a surprise; Ruddy, Irvine, and others have made a career of accusing Starr of being part of a Foster cover-up. What *is* surprising is the relative silence that has greeted Starr's report in the mainstream media. While most newspapers reported the story briefly, few if any closely examined the evidence Starr has gathered.

They're missing something. Not only does the report contain crucial information never before made public, it also adds a powerful storyline to a massive body of physical and circumstantial evidence. Taken as a whole, this evidence leaves the conspiracy theories in ruins. What follows is a look at some of Starr's key findings, based on the report itself and on lengthy

Byron York is an investigative writer with the American Spectator.

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interviews with sources inside the investigation.

The Gun and the Oven Mitt

Virtually all the theories challenging Vincent Foster's death by suicide "rest on an assumption that the gun did not belong to Mr. Foster," the Starr report says. Ruddy, for example, cites a firearms expert as saying the antique .38 caliber pistol found with the body "sounded like a 'drop gun,' an old, untraceable gun left at a crime scene to confuse investigators." Indeed, if the gun wasn't Foster's, anything could have happened. But if the gun did belong to Foster, it is very difficult to accept the various murder theories that have grown around the case. How could the killer or killers have gotten Foster's gun? Did they break into his house and steal it? Hold him up on the street when he just happened to have it in his possession? No homicide theory makes sense if the gun was Foster's.

With that in mind, Starr's staff went to great lengths to investigate the gun. Like previous investigators, they were unable to prove beyond all doubt that the gun belonged to Foster. But they built a detailed and convincing case that it did.

Foster's mother, Alice Mae Foster—never interviewed by any previous investigators—told Starr's staff that her husband, the late Vincent Foster Sr., kept a revolver in his bedside table. He also kept other guns at their home in Hope, Arkansas. In 1991, as the elder Foster was suffering from a long and ultimately fatal illness, Mrs. Foster asked her daughter, Sharon Bowman, to gather up the guns. Bowman told Starr's investigators that she collected some handguns—it's not clear how many—put them in a shoebox, and placed the box in her mother's closet (Bowman later found some .38 caliber ammunition owned by her father, suggesting that at least one of the guns was a .38). After Vincent Foster Sr. died, Mrs. Foster gave the box to Vince Foster, a fact confirmed by both Bowman and another sister, Sheila Anthony.

Lisa Foster, Vince Foster's widow, told Starr's investigators that the family took a box of guns with them to Washington, keeping it in a bedroom closet (Foster could not register the guns in the District of Columbia, where their possession is illegal). Lisa Foster specifically recalled two guns: a .45 caliber semiautomatic and a silver-colored pistol that she called a "cowboy gun." She told Starr that after she learned of her husband's death, she went upstairs to check the box. She found the .45 but not the second gun.

Early investigators showed Lisa Foster a photo of the gun found with Foster's body in Fort Marcy Park on July 20, 1993, to see whether she could identify it as the one belonging to her husband. She could not. In May 1994, Fiske's investigators showed her the actual gun; according to the FBI interview report, she said it might be the one she had seen in her houses in Little Rock and Washington. In a 1995 interview with Starr's staff, she was again shown the gun; she was more definite that it could be the one, but did say she remembered the pistol in the house as being lighter in color.

Meanwhile, Sharon Bowman—who is said to be familiar with guns—was shown the .38 and said it looked like one her father kept in the house in Hope. Also, one of Vince Foster's sons—who had never before been interviewed—said he knew his father had an old .38 revolver; he told Starr's investigators he saw it being unpacked at their house in Georgetown (he also said there were a few loose bullets in the shoebox that contained the guns). Foster's other son also remembered the gun, and Foster's daughter told Starr she remembered a handgun at the home.

Another piece of previously unknown evidence appears to answer the question of how Foster took the gun to Fort Marcy Park. Starr's report reveals that an oven mitt was found in the glove compartment of Foster's car (the report says Park Police photos taken at the police impoundment lot on July 21, 1993, show the mitt in the compartment). The evidence is, on the surface, baffling. "Our investigators tried to figure out what was this oven mitt doing in the glove compartment of the car," says a source inside the independent counsel's office. Members of Foster's family confirmed that the mitt had come from their home, but they had no idea how it had gotten into the car.

When Starr's experts tested the mitt, they found pieces of sunflower seeds on the inside, which they believe were deposited there in the normal course of kitchen use. They also found a small amount of lead residue in the mitt. Then they made a connection. Tests of Foster's pants pockets also revealed a portion of a sunflower seed in the front left pocket—as well as a small amount of lead residue. The evidence led Starr's investigators to the conclusion that Foster placed the gun inside the oven mitt when he took it from his home. The gun picked up some sunflower-seed scraps and left some lead residue. At some point, probably when he got to Fort Marcy, Foster removed the gun from the oven mitt and placed it in his pants pocket, where the gun left the sunflower particles as well as more lead residue.

The Blood, the Shoes, and the Carpet

In *The Strange Death of Vincent Foster*, Ruddy devotes several pages to what he characterizes as a sus-

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piciously small amount of blood at the scene where Foster's body was found. Citing a homicide expert, Ruddy writes that "the first thing detectives look for in a murder/suicide investigation is massive blood loss. If it exists, detectives can eliminate any idea the death was caused by other means, or that the person had been killed elsewhere and the body moved."

The blood evidence has given rise to a large number of theories about Foster's death. If Foster did not bleed profusely at the death scene, the theories suggest, he must have bled at some other place, after which the body was cleaned up and taken to Fort Marcy. Starr's report disproves that speculation by showing that Foster's body did bleed extensively at the scene—and later lost a massive amount of blood during its removal to a hospital morgue.

Starr's investigators concede that Foster did not bleed a great amount from the mouth, as might happen in a case in which a man put the barrel of a gun into his mouth and pulled the trigger. But the Starr report quotes five people present at the scene—each of whom had an opportunity to take a close look at the body—as saying Foster did bleed extensively, apparently from the exit wound in the back of the head. One witness recalled "a lot of blood" under Foster's head. Another said that there was a pool of blood under the head and "the back of the shirt was soaked with blood from the collar to the waist." And yet another noticed a "large blood pool" where Foster had been lying.

After that, according to Starr's report, the doctor who conducted the autopsy "observed a large amount of liquid blood in the body bag" used to take Foster's body from the park to the Fairfax County Hospital morgue. "If you see the photos of the shirt taken after the autopsy," says the source in Starr's office, "the whole shirt is blood-drenched." Starr's experts argue that the loss of so much blood after Foster's body was moved indicates that there had been no extensive blood loss prior to Foster's time in Fort Marcy. "Logically, blood in the body bag is inconsistent with the theory that blood drained elsewhere," says the source.

Then there is the issue of Foster's shoes. "Foster's shoes were found by the FBI lab not to have a speck of soil on them," Ruddy writes. That "evidence" has led conspiracy theorists to maintain that the body was carried into the park. How could Foster have walked more than 700 feet through the grass and bare dirt of the park and have no soil on his shoes?

The source in Starr's office says the answer is easy: There was indeed dirt on the shoes. "There are pictures taken of the shoes at the time the FBI first examined them," the source says. "Those pictures show soil on the shoes." The source says the soil is located on the left heel of the black dress shoes and is easily visible to the naked eye. He attributes the no-soil theories to confusion over an FBI report prepared for independent counsel Fiske. "A lot of this got currency to begin with because of a misunderstanding in the FBI report that says there was no *coherent* soil on the shoes," the source says. That simply means that there was no mud or caked dirt; there was, he says, a visible portion of plain old loose dirt.

Another component of the body-was-moved theories is the presence of carpet fibers on Foster's clothing. Conspiracy theorists maintain the fibers indicate that Foster's body was rolled in a carpet, then taken to Fort Marcy Park. Ruddy, for one, has criticized the Park Police and Robert Fiske for not thoroughly investigating the fibers; in his book, Ruddy says Fiske "accepted lame excuses from the Park Police and others to explain away evidence that pointed to foul play."

Starr's evidence should dispose of much of that speculation. According to the report, the FBI laboratory found 35 carpet-type fibers in Foster's clothing. Of those, 23 were white fibers that Starr's technicians say are consistent with carpet that was in Foster's house at the time of his death. Of the others, four were consistent with samples Starr obtained from the White House and from Foster's car (Starr's experts could find no source for the other eight).

But the most persuasive argument about the fibers is actually a question: What if Foster's body *had* been wrapped in a carpet? What kind of evidence would that have left? According to Starr's investigators—and common sense—such a full-body wrap would have left vastly more fibers than were found on Foster's clothes. "The experts think there ordinarily would have been hundreds of fibers, not 35, if he had been carried in a carpet," the source says—particularly if the clothes were soaked with blood, making the fibers more likely to stick to the material.

Craig Livingstone and the Keys

Another matter that has fed conspiracy theories is the issue of the keys: Police found no keys on Foster's body at the park, but later, at the hospital morgue—supposedly after White House aides Craig Livingstone and William Kennedy III had arrived to identify the body—the keys were found. Livingstone and Kennedy might have planted the keys on the body, say some; Ruddy quotes a homicide expert as calling the whole thing "fishy."

In this instance, Starr's investigators are quick to point to mistakes by the Park Police. In the initial, on-the-scene search of Foster's pockets, Park Police offi-

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cer John Rolla found no keys. Rolla told investigators that later, when he and a colleague went to the morgue to look again, they discovered the keys—in the pants pocket Rolla had searched before. "It's really a little bit unfortunate for him [Rolla] to get out there and do this half-baked thing," the source says. "We're not going to stand behind the thoroughness of the initial work done at the scene." Starr's experts believe Rolla simply missed the keys in Foster's pants pocket because their weight pulled them down toward the side of his leg as he lay on the ground.

According to the Starr report, Rolla arrived at Fairfax County Hospital at 9:12 p.m. He then found the keys and left before Livingstone and Kennedy arrived, about 10:30, to identify the body. And the source says Livingstone and Kennedy were never even in the same room as the body. "They did not have an opportunity to put keys on the body," the source says. "They were accompanied by police at all times and were only allowed to look at the body through a window."

Foster's State of Mind

This is the topic in Starr's report that made the most headlines. The *New York Times* topped its story with "A Report On His Suicide Portrays a Deeply Troubled Vince Foster," and virtually every newspaper article led with Starr's conclusion that Foster killed himself because of deep depression.

On this, Starr's report includes some new information. The most compelling is that Foster's wife told investigators he broke down in tears—a very unusual occurrence—during a dinner conversation four days before his death. She says he also mentioned resigning around the same time. And Foster's mother told Starr that Foster told her a day or two before he died that he was unhappy with his job.

Mostly, however, Starr repeats previously known episodes. For example, he recounts how Foster's sister, Sheila Anthony, told investigators her brother told her on the Friday before he died that he was depressed. Anthony said she gave him the names of three psychiatrists. On Monday, Foster called his doctor in Little Rock; the doctor prescribed an anti-depressant, Desyrel, which Foster took the night before he died. Based on such evidence, a psychiatrist retained by Starr declared that "to a 100 percent degree of medical certainty, the death of Vincent Foster was a suicide."

That impossibly confident claim is not the strongest point of Starr's report and will surely be attacked by the Foster doubters. The truth is, state-of-mind analysis is less precise and more open to interpretation than physical and circumstantial evidence. It is the cumulative weight of all Starr's evidence pointing toward suicide that is overwhelming.

Beyond these basic issues, Starr's report covers dozens of lesser controversies in the Foster case. Among them:

The Note

In late 1995, a panel of three experts hired by the newsletter "Strategic Investment" announced that the famous note found in Foster's briefcase—"Here ruining people is considered sport"—was a forgery. Fiske had declared the note authentic, and some had criticized him for making that determination on the basis of a single page of Foster's handwriting. Starr's experts—from both the FBI lab and outside government—examined four original pages known to have been written by Foster, as well as 18 checks he had written. They decided that the handwriting was Foster's and that any differences between the samples and the note were the result of "normal, natural and spontaneous writing variations." Starr's experts point out that they examined the originals of all samples, not photocopies as the "Strategic Investment" team had. Also, some have questioned the absence of a classic "Goodbye, cruel world" suicide note. Starr's experts point out, however, that the "great majority" of suicides leave no note at all.

The Neck Wound

Ruddy cites a Fairfax County medical technician who says he noticed a "gunshot wound" on Foster's neck near his right ear. Starr's report says that there simply was no such wound. "There was a lot of blood on the right side of the neck," says the Starr source, suggesting the paramedic mistook a stain for a wound. "We showed him the autopsy photos, after everything was cleaned, and he said, 'Well, I must have been mistaken about that.'" The source points out that there were six people at the autopsy and that detailed photographs were taken. "There's just not a wound there," he says. "That's the bottom line."

The Makeup Artist

There has been much speculation that the president knew about Foster's death before the White House says he was informed, around 10 p.m. Ruddy tells the story of a makeup artist for CNN who went to the White House before the president's appearance on *Larry King Live*. Ruddy says the young woman told Fiske's investigators that she saw the president

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informed about Foster before the program began at 9:00 p.m. "At that point, she said, an unidentified male, whom she presumed to be an aide, notified Clinton that a note or document had been found in Foster's office," Ruddy writes. "She clearly saw the president acknowledge the remark."

But this is not what the woman told the Fiske team, Starr's investigators say. According to the source, Starr's team interviewed the woman three times—and her story is completely different from that reported by Ruddy. "She gave us pretty detailed testimony that she heard staffers talk about [Foster] during the show," the source says. "They were talking about who would notify the president." That does not support the idea that Clinton knew about the death before going on television.

The Office Files

Of course, there *was* a cover-up in the Foster case; it just had nothing to do with the manner of his death. We know from extensive testimony before the Senate Whitewater Committee that several top White House officials, including the first lady's then-chief of staff Margaret Williams, went to Foster's office on the night he died. There is testimony that Williams removed some documents (she denies this). But there is no question that White House officials were adamant in their refusal to let outside authorities look in Foster's office as they investigated his death. And we know that then-deputy attorney general Philip Heymann became so frustrated with White House counsel Bernard Nussbaum's secretiveness that he said, "Bernie, are you hiding something?"

Starr is looking into these suspicious actions as part of the larger Whitewater investigation. But they do not tell us anything about whether Foster killed himself or was murdered. "Ultimately," says the source, "the actions taken by White House personnel in the aftermath are not inconsistent with suicide."

What happens now? There is no doubt conspiracy theorists will cite plenty of reasons to reject Starr's conclusions. For example, they have already begun to complain about Starr's treatment of Patrick Knowlton, a motorist who says that on July 20 he stopped in Fort Marcy to relieve himself and saw a man in a car who stared at him menacingly. Knowlton believes this man was connected to the Foster case. But Starr found no other evidence to support Knowlton's story, and the report mentions the incident only briefly.

There will also be talk about Miguel Rodriguez, whom Ruddy calls the "hero" of the Foster story. Rodriguez served for several months as a lawyer on Starr's team; he resigned after a number of disputes with other investigators. Ruddy reports Rodriguez questioned earlier findings of suicide; his efforts to investigate evidence that might point toward foul play, Ruddy contends, were frustrated by top officials in Starr's office.

But the conspiracy theorists have other reasons to dismiss the Starr report—reasons that have little to do with the investigation itself. In Ruddy's case, he now has a book to sell; it is unlikely he will suddenly concede that its premise is wrong. In addition, he writes about Foster for the *Pittsburgh Tribune-Review*, the newspaper owned by conservative millionaire and Foster skeptic Richard Mellon Scaife. And then there is Ruddy's Web site (www.ruddynews.com), which he uses to update his attacks on Starr.

And that is not all. In April of this year, Ruddy teamed up with Pat Matrisciana, the California filmmaker responsible for the Clinton-bashing videotapes "The Clinton Chronicles," "The Death of Vincent Foster: What Really Happened?" and "The Mena Cover-up." The two sent out a direct-mail advertisement for a new video, "The *60 Minutes* Deception," in which Ruddy claims to have been misrepresented by the CBS newsmagazine. The program, Ruddy says, "did every sneaky, underhanded thing to make me look bad." Reporter Mike Wallace's plan was "to reinforce the Establishment's suicide-in-the-park hoax and to protect the Clintons by making anyone like me who questions the Foster death look like a crazy, mean-spirited political adversary."

But attacking CBS did not seem to be Ruddy's real point. "I'm going to ask you to make a heroic sacrifice for your country," he continued. "I'm hoping a heroic benefactor will sacrifice $1,000, $2,500, or even more. Can you be that hero? Think of the newspaper, radio and TV ads Pat [Matrisciana] could buy if someone sacrificed $5,000 or $10,000. . . . Pat also needs gifts of $500, $250, $100 and $50. Whatever you can send will be put to use immediately in his monumental battle between the forces of truth and the forces of falsehood. If you sacrifice $30 or more, you'll receive a *free* copy of the *shocking new video* 'The *60 Minutes* Deception.'"

It seems unlikely that Kenneth Starr's report—and the extensive, carefully analyzed evidence behind it—will stop such campaigns. Judging by their writing, speeches, and fund-raising appeals, the conspiracy theorists simply have too much invested in their murder scenarios to conclude that the evidence proves them wrong. But in the end, it does just that. ♦

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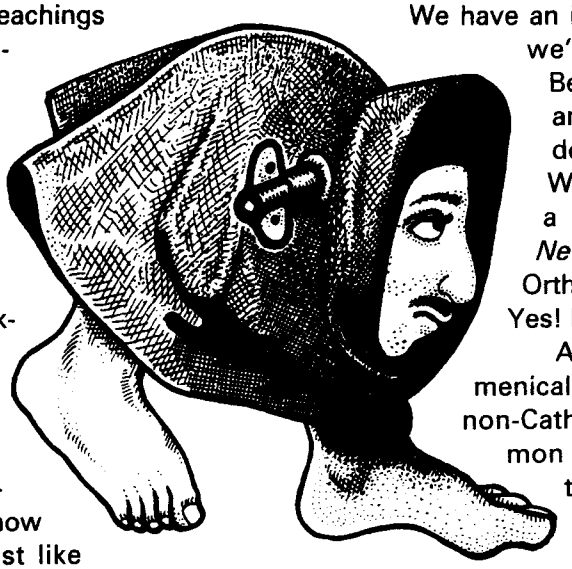
Why Are Catholics Such Cowards?

The Vatican thunders against abortion, priestesses, same-sex "marriage," assisted suicide, illicit sex, consumerism, smutty sex education, defective theology, and more. But walk into your average parish. *Where's the beef?*

All we get are *crumbs*: balloons or clowns or liturgical dancers or banners with greeting-card sentiments, but always platitudinous homilies. We don't hear about the Church's teachings on abortion, euthanasia, homosexuality, pre-marital sex, pornography, birth control, the indissolubility of marriage, Hell, etc. *Why not?* "Too controversial," whines the cowardly pastor. Pop psychology and feel-good "theology" are all the go. Shack-ups and homosexual partnerships are considered morally equivalent to Holy Matrimony, for Father Fluff doesn't refer to husbands and wives as husbands and wives anymore — now he calls them "partners," just like people in immoral unions, lest those living in sin feel "marginalized" or, well, sinful. Indeed, sin and repentance are passé, prompting one to wonder why Christ bothered to get crucified and why the martyrs chose death over compromising the Faith.



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The Reviewers Reviewed

Literary Boosterism in the New York Times

By Christopher Caldwell

Those who love fiction, especially literary fiction, are ever inclined to lament its death. But the very same people sometimes ask: *How can fiction be dying if I've read a half-dozen new novels in the past five years that I hope my children will read someday?* Those who like Irish writers will find young ones like Colm Toibin who compare favorably to early 20th-century ones like Sean O'Faolain. For fans of Indian novels, the half-dozen serious novelists working in the subcontinent today are a half-dozen more than we had 30 years ago. Martin Amis's *The Information* bears comparison to any of his father's darker works. Paul Theroux's many recent novels are not his best, but they all stand up. It's not that good fiction is impossible to write; it's just that—amidst the record thousands of self-indulgent and rubbishy novels rushed into print each year—the good ones are impossible to find. And a look at the *New York Times Book Review* over the last six months offers an explanation: It's not that fiction's poorly written but that it's poorly reviewed.

The *New York Times Book Review* assigns the vast majority of its fiction reviews to fellow fiction writers. However time-honored the practice of throwing review work to "artists" in order to help them keep body and soul together, the dominance of fiction writers in fiction reviewing has become an enormous problem. Most fiction is—and has always been—bad. What's new is that fiction writers, a traditionally jealous lot, are loath to admit it. Whether it's due to writers' workshops, to a zeitgeist that values niceness above all, to a boom in blurb-writing, to a nascent class solidarity among déclassé fictioneers, or to mere self-interested back-scratching, novelists and short-story writers seem congenitally disinclined to knock one another's work. Positive reviews in the *NYTBR* outnumber negative reviews roughly two-to-one. In reviews by fiction writers, that ratio rises to three-to-one. In a world where time is short and the market flooded with loopy novels, that ratio ought to be *at least* reversed. It should ideally be about one-to-ten.

One problem is that a lot of writers are just lousy critics, adducing the wrong stuff to convey the wrong things. Take Ken Kalfus, identified as "an American writer living in Moscow," on Charles T. Powers's novel *In the Memory of the Forest*. Kalfus calls the book "remarkable for the acuity of its moral vision and the vivacity of its language." Specifically, "Powers rarely writes a sentence that doesn't contain something bright and arresting: 'The smell of the vine struck me like a dropped hammer.'" Kalfus does not say what it is that makes this pedestrian sentence more "bright and arresting" than, say, *The dame had a pair of gams on her that just wouldn't quit.*

Then there's Tom Drury, author of the novel *The End of Vandalism* and reliable rave-writer, reviewing Judy Troy's *West of Venus*, which finds praise for every manner of platitude:

> A reader will credit Ms. Troy's spare but lyrical evocation of the Midwestern prairie. From "harvested fields silvered by moonlight" to Morgan's overdecorated grave, which appears as "a too bright boat on a green sea" to a porch light in the dark that suddenly reminds Holly of "summer nights she'd played outside until her mother called her in," *West of Venus* is graced by images of both loss and renewal.

Hang down your head, Tom Drury.

Or take Michael Mewshaw on Lionel Shriver's novel of tennis, *Double Fault*. Mewshaw himself has written a "tennis novel," and to his mind this passage in Shriver is the style to which we should all aspire: "The serve was into the sun, which at its apex the tennis ball perfectly eclipsed. A corona blazed on the ball's circumference, etching a ring on Willy's retina that would blind-spot the rest of the point." Not only does Mewshaw praise this jumble of possessives without antecedents, of verbed nouns, of awkward periphrasis, he invokes Nabokov, Hemingway, Mark Harris, and John Irving to do it.

Much bad reviewing, then, is a simple function of bad taste. But even where reviewers correctly diagnose serious flaws in a novel or stories, that's no guarantee of a negative review. Fiction writers mostly follow the rule that if you can't say anything nice about a book, don't say anything at all. The most turgid of such reviews introduce the author and then run out the clock with a plot summary. Penelope Fitzgerald's review of Muriel Spark's recent *Reality and Dreams* does little more than inform us that Spark often discusses good and evil from a theological perspective, then closes by saying,

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"Dame Muriel is as enigmatic in this novel, as distinct, as relentlessly observant of human habits and unguarded moments as she has ever been." Talk about enigmatic.

Sometimes, happily, the veil slips. After a desultory mix of plot summary and general observations about *romans à clef*, David Willis McCullough ends his review of Ward Just's *Echo House* with one dismissive sentence: "This is a portrait of Washington at once so knowing and so cynical that only a Washingtonian could truly love it." Here is the time-honored *Basic Instinct* review: ten minutes of lovemaking, followed by five seconds of gouging the author's eye out with an ice pick.

But McCullough-type reviews are rare, and often even a diagnosis of catastrophic flaws is accompanied by an outright rave. These are the most curious of the *NYTBR* book reviews: the doublethink reviews, those glowing accounts of books that the reviews themselves show to be stinkers. These are so common that they've even come to follow a predictable four-part structure: one paragraph of biographical info on the author, then an 800-word plot summary. Then a penultimate paragraph to identify the book's manifold problems (the reviewer usually refers to his bill of particulars as "quibbles"). Then a final, blurb-ready paragraph (usually beginning with "However" or "And yet") that tells why, despite the mediocrity the review has amply displayed, this is a spectacular book.

Jo Ann Kiser's review of Chris Offutt's *The Good Brother* is a classic of the genre. Kiser, a reviewer for the *Mountain Eagle* in Whitesburg, Ky., is not yet published as a novelist, but she is dazzling in her nonjudgmental magnanimity: "Offutt's inexperience as a novelist emerges once he departs from his native terrain. He can't hold our interest in the lives and motivations of his Montana characters." This, of course, is no quibble but a fatal flaw, and one assumes Kiser would warn the reader not to touch *The Good Brother* with a barge pole. No way! Without even catching her breath, Kiser continues, "But this is a minor complaint. *The Good Brother* is a fine first novel by a fierce writer." Indeed, of all the first novels that can't hold our interest, this is one of the finest!

Creative-writing teacher Elizabeth Benedict, reviewing Susan Thames's *I'll be Home Late Tonight*, acknowledges that "in certain key scenes, her descriptions seem not only dramatically limiting but psychologically incomplete." But after the quibble paragraph, can the "however" clause be far behind? "Still," Benedict says, "Susan Thames can also be an eloquent observer of family life."

The short-story writer Richard Burgin has this to say about James Kelman's story collection *Busted Scotch*: "There isn't much action or character development in the conventional sense in these stories. There's also little sense of women as individuals—they're more like a force that men fear as much as they desire. And the male characters are often quite similar in their thoughts and tone of voice." That's not a quibble; that's an indication that Kelman should find a new line of work. "Yet *Busted Scotch*," Burgin continues, "is filled with strong stories, and the best of them are fiercely beautiful. . . . [An] unexpected feeling of connection with others introduces an element of hope into some of the stories in *Busted Scotch* and helps to balance, if only intermittently, the bitterness of Mr. Kelman's brilliant fictive universe."

EVEN A DIAGNOSIS OF CATASTROPHIC FLAWS IS OFTEN ACCOMPANIED BY AN OUTRIGHT RAVE.

This tendency to rave about demonstrably bad books is most marked in reviews of first novels and unknown writers. The *NYTBR* has a rigidly applied class system under which big novelists review big novelists (e.g., Martin Amis on Don DeLillo), medium ones medium ones (Patrick McGrath on John Banville), and little ones little ones (David Freeman on Leslie Epstein). The top guns are much braver and write more interesting reviews. Hilary Mantel's piece on Edna O'Brien's *Down by the River* sums up many of the author's strengths over her career and deftly shows how they work against her latest novel, a highly politicized one on abortion: "Mrs. O'Brien writes orgy prose, dripping and rich and fantastic. Her ironies are crushing, not piercing, and the seriousness and dignity of her undertaking is marred by a solemnity that sometimes trips her." Patrick McGrath's treatment of John Banville's *The Untouchable* educes a great deal from Banville's restrained style and conducts a deeply considered argument on what drove a certain type of English aesthete (such as Anthony Blunt, on whom Banville's protagonist is based) to communism. T. Coraghessan Boyle's treatment of Thomas Pynchon's *Mason & Dixon*, a great essay that places the new book within the uneven Pynchon œuvre, is very specific about the strengths and weaknesses of the book's historical-parody style, and does its own entertaining with *aperçus* and gags.

The success of these A-list reviews shows more than just that better writers write better articles. It shows that writers with big ambitions are engaged in a qualitatively different enterprise from writers whose work is defiantly small-scale. Still, the perverse result of this pairing of reviewers and writers by status is an almost infinite forgiveness. A first novel that might look flabby and sloppy to T. Coraghessan Boyle looks like a harbinger of genius to someone who's just put out a similarly flabby

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effort. Really good books are thus reviewed on a different good-bad spectrum from really bad books.

The upshot is an irrationality in matters of taste, a dangerous relativity in critical standards, and an offensive grade inflation that pollutes the whole book section. Take the opening of this review of Ann Beattie's *My Life, Starring Dara Falcon*, by the short-story writer Jim Shepard: "Vladimir Nabokov—now *there's* a name you want to see at the beginning of any review of your work—once remarked that Anton Chekhov 'wrote sad books for humorous people.' . . . The same could be said of the best of Ann Beattie's work." It's not the comparison of Beattie and Chekhov that's most bothersome here. Rather, it's the bit between dashes, which makes it clear that the audience Shepard has in mind as he writes, the "reader over his shoulder," is Beattie herself. Heaven forbid he should say something to offend her.

Is this just log-rolling? Does Shepard expect that Beattie may wind up sitting on the jury when he's up for the National Book Award (another big misuse of fiction writers, but that's another article) or simply reviewing his big novel at some point? Perhaps. But in a recent issue of *Smithsonian*, former *NYTBR* editor Rebecca Pepper Sinkler convincingly described a rigorous system that is in place for avoiding the most direct of conflicts of interest. What we're viewing here is rather the over-charitable, morally hazardous impulses of the writers' workshop. Whether or not the reviewers are writers'-workshop writers, most have absorbed the writers' workshop ethos: "Say something nice. Don't be hard on him. He's trying. Don't quibble."

That is, much of the review section is given over to any-port-in-a-storm efforts to think well of a piece, even if this means resorting to nonliterary considerations in order to praise books of slender literary merit. Take Maxine Chernoff on Doris Betts's *The Sharp Teeth of Love*. In Betts's novel, a woman who's supposed to get married ditches her fiancé to visit Donner (named after the cannibals) Lake. She meets some drifters who help her emerge from

Kevin Chadwick

her "emotional wilderness." This sounds like one of the most heavy-handed novels you could buy, but Chernoff closes her review with this summation: "In Luna Stone, Betts offers her readers a contemporary woman who struggles to combine what is best in her history with an ever-sharper awareness of the flexibility and resourcefulness required to survive in the modern world. Unlike Tamsen Donner, Luna will not allow herself to be marooned with only her old loyalties and grievances." There's almost a socialist realism to this effort to praise a book simply because it has a strong woman in it.

Or take Suzanne Berne on Chris Bohjalian's *Midwives*. While poorly emphasized characters are "a troublesome flaw" in Berne's view, she nonetheless praises the book as "an otherwise engaging novel," concluding that Bohjalian "has also landed on a hot topic for baby boomers—the whole question of when alternatives to traditional medicine are beneficial, and when they become dangerous." End of review. Well, if you can't say anything nice about the writing, say something nice about the marketing potential.

Among the fiction writers who review for *NYTBR*, Francine Prose is the most acute, honest, and intelligent critic and also the only one of the elite reviewers who slums it occasionally by reviewing promising youngsters and low-profile novelists. In a September masterpiece on Larry Baker's lazy novel *The Flamingo Rising*, Prose analyzes not only a book but a way of life:

> There's not one cynical thing about this book—at least not on the part of its author—and you want to like this harmless, well-meaning novel. What's more, you want to protect it, just as you want to shelter and encourage all first novels and first novelists, those brave, romantic creatures still scribbling down their dreams, even though we hear that fewer and fewer first novels are being published these days.
>
> But no matter how you try to sustain these warm feelings, *The Flamingo Rising* keeps dampening them with the sponginess, the sloppiness of its prose—and with the fact that no one seems to have cared enough to attend to its problems. . . . Do writers and editors no longer care about precision, clarity, the most basic rules of grammar? Have we lost

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faith in the intelligence of our audience? Do we imagine readers so hungry for a feel-good, upbeat book about life and death, Romeo and Juliet, drive-ins and a kinder, gentler American past that they will readily overlook the spectacle of an author slinging language around in the hope of hitting something? It's best not to dwell too much on these questions, not if you care about fiction.

Prose has found her way to the very central problem with fiction-reviewing today, one that is exemplified by the *New York Times Book Review*. In addition to its role of separating the wheat from the chaff, it has taken on certain secondary—and directly conflicting—roles: as carnival barker for the arts and self-esteem builder for fledgling writers.

It's not the first time the *Times* has faced this problem. Throughout the 1980s, the *New York Times* theater critic (now columnist) Frank Rich was excoriated by the New York theater world for his consistently negative reviews.

So preponderant was the influence of the *New York Times*, producers complained, that Rich's pans could doom a show that had a fighting chance for a long run. Rich, the complaint continued, was posing a threat to the very existence of New York theater. *60 Minutes* did a segment that portrayed him as a menace, and the *Village Voice* regularly ran headlines like "Who Does Frank Rich Think He Is?"

Well, he thought he was a critic, actually, that species of writer that tends to be found when—and only when—people are serious about the arts. Whenever people make big sacrifices for art, serious, honest, uneuphemistic talk about what the arts mean and what art should do—criticism, in other words—becomes a matter of desperate importance. Once a critic takes into account whether his writings will cause an author to lose money or suffer hurt feelings, he's moved from criticism to something else altogether

With certain exceptions, the *NYTBR* fiction-reviewers are answering the question of who they think they are in a much more equivocal way than did Frank Rich. Most of the fiction writers who review for it, whether through log-rolling or a misapplication of the Golden Rule to literary matters, are unwilling to take the heavy responsibility of passing judgment.

This poses a big problem, and not just for the *New York Times Book Review*. Either literature matters or it doesn't. If literature doesn't matter, then our newspaper of record is wasting a lot of resources devoting so much space to it in the first place. But if it does matter, then, with novels continuing to proliferate, it's more imperative than ever to steer people away from such tripe as *Busted Scotch* and towards life-enriching books like (in my opinion) *Mason & Dixon*. Or to warn readers that time wasted with Chris Offutt makes it less and less likely that you'll get to read *War and Peace*. That's a mission worth a very high price in thwarted careers and bruised egos. ♦

THE ALTERNATIVE ALTERNATIVE

Where Conservatism Cohabits with Sex Ads

By Russ Smith

I am the editor and owner of *New York Press*, a weekly newspaper distributed free in Manhattan. That automatically makes my paper a member of the "alternative" media community in the United States, but *NYPress* is, in truth, a very stark alternative to the world of the "alternatives." We have a rock critic who's a disciple of Ralph Reed, surely the only one in the country. Our regular columnists include Christopher Caldwell, a senior writer for THE WEEKLY STANDARD, and William Tucker, the nation's foremost opponent of rent control. And "MUGGER," the column I write, has discussed the flat tax, Newt Gingrich's brilliant '94 revolution (and subsequent wimp-out), Bill Weld's battle with Jesse Helms, the mastery of Howard Stern's politically incorrect (and usually correct) radio tirades, and the utter disarray and hypocrisy of the Manhattan media, where it matters more whom you have drinks with at night and what school you went to than what quality of work you do. In contrast to our chief competitor, the sclerotic *Village Voice*, as well as the vast majority of papers that constitute a weak and ineffectual trade organization called the Association of Alternative Newsweeklies, *NYPress* dares to praise conservatives and Republicans while attacking Democrats and leftists—and still turns a healthy profit.

How does such a publication come to exist? A bit of autobiography might help. At the age of 21, while a senior at Johns Hopkins University in Baltimore, I launched a free, "alternative" newspaper (the term "underground" had been mercifully retired a few years earlier). It was called, simply, *City Paper*. *City Paper* was a low-budget effort: A partner and I pooled $10,000, paid ourselves and friends nothing, and—even during the 36-hour stretches of work that characterized our production schedule—generally had a ball putting out a newspaper.

The amateurish tabloid gradually

You can e-mail comments to NYPress's *Russ Smith at MUG1988@aol.com.*

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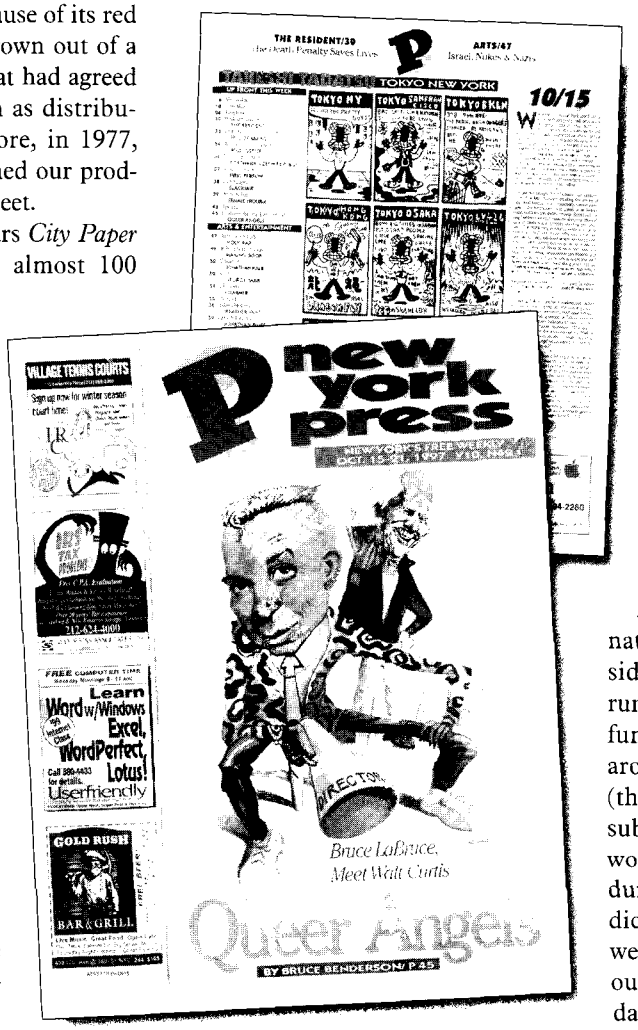
morphed into a legitimate business (as we found out a few years later when an IRS agent came to our door with a bill for $100,000 in back taxes). We needed to issue salaries to our few workers and meet the deadlines that our printer in Carroll County imposed. There were other problems that had to be addressed. Something I remember vividly from those days 20 years ago is that, because of its red logo, *City Paper* was thrown out of a number of the stores that had agreed to allow us to use them as distribution points; in Baltimore, in 1977, many proprietors assumed our product was a Communist sheet.

Over the next 10 years *City Paper* flourished, growing to almost 100 pages a week with a circulation of 90,000, and in 1987 my partner and I were able to sell it to the *Scranton Times* for almost $4 million. This was a considerable sum back then, and a fortunate time for us to unload the paper (you'll remember that media properties were trading hands like crazy), since it was just a month before the '87 Wall Street crash. (In 1981, my partner Alan Hirsch and I also started Washington's *City Paper*, but we sold 80 percent of it to the *Chicago Reader* the following year.)

In the wake of *City Paper*'s sale, I moved to New York to start a paper in lower Manhattan to compete with the *Village Voice*. It had long been my conviction that the *Voice*, swollen with advertising and arrogance, had priced itself out of its market. I believed the *Voice*'s high advertising rates, along with the lack of competition it enjoyed, meant that a quality free weekly could slide beneath it and build a prosperous business. I had grown up on Long Island and closely followed the *Voice* for years. In this, I had a perspective that perhaps other alternative-newspaper owners didn't; to them, the *Voice* was fearsome and the market locked up.

It was essential, I thought, to publish a newspaper that didn't toe any line. Of course, like other alternative weeklies all over the country, we would deliver a comprehensive listing of events around the city and the requisite pages of sex ads in the back of the paper. (Something that particularly gets my goat is the "news" coverage in other alternatives, which often calls for boycotts against companies that "exploit" women, while they, too, publish these lucrative ads.)



But editorially, *NYPress* would provide an alternative to the *Voice*'s lockstep "progressivism," which then and now appeared caught in a time warp. A writer's work was judged by his or her attire (read tattoos and nose-rings) and adherence to certain codes of speech (which means sprinkling phrases like "people of color," "empowerment," and "caregiver" into copy, and working a reference to Descartes into a review of the new Nine Inch Nails recording). There would be no political litmus test for copy at *NYPress*.

So imagine my surprise when early on in *NYPress*'s history, during the '88 primary campaign, my paper was booted out of the downtown establishments where we left it for free consumption, not for left-wing propaganda, but because MUGGER had called Jesse Jackson an opportunistic demagogue. Only in New York, as I've found out time and again in the nearly 10 years that *NYPress* has published.

As a result, and despite the "alternative" tag, *NYPress* is largely considered a "Republican" newspaper run by rich white boys with fat trust funds who are simply "playing around" in the newspaper world (though I grew up in a middle-class suburban tract house and had to work three jobs to make ends meet during college). This creates odd dichotomies. For example, because we're considered an "alternative" by our readers in the grungy and outdated East Village, it's a "Republican" crime against the underprivileged if MUGGER or one of our food reviewers actually takes a meal at the horrendously expensive Daniel or Lespinasse. *That's not what the people eat, maaan*. Where, our critics demand, are the critiques of joints where you can get rice and beans and a potent margarita for less than $5? We're held to a higher standard in this regard than the *New York Times*: Does anyone complain when restau-

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rant critic Ruth Reichl spends hundreds upon hundreds of dollars for each review that appears in Wednesday's paper? Of course not: that's the *Times*, not the "people's paper" that *NYPress* is supposed to be.

Don't get the wrong idea: *NYPress* is not *National Review* on newsprint. Our roster of regular writers includes: a professional dominatrix; the still iconoclastic Alexander Cockburn; a neurotic family man who details his truly bizarre obsessive-compulsive afflictions; a columnist specializing in patents and inventions; a 24-year-old woman who is explicitly frank about her sexual adventures in Manhattan; John Strausbaugh, whose book column ignores or sneers at anything put out by the major publishing houses; and a rambling deadbeat called "Slackjaw," who's rapidly going blind and won't refuse any pint of beer that's offered.

One sign that our readership is passionate about the paper they both read and often abhor is the volume of letters to the editor we receive. In a typical week, we publish at least 20 of them, at least 75 percent critical, a small sampling of which follows.

Oct. 8: "I've got it! MUGGER is secretly a radical leftist who recognized that the only way to animate the flagging left is to pose as a Limbaughesque martini-swilling buffoon. Right on, Comrade MUGGs! You have succeeded where Abbie failed."

Oct. 1: "Re: *NYPress*'s Best of Manhattan introduction, 9/24. Don't worry, the tone of your paper's not Republican; it's fascist."

June 11: "Re: 6/4 issue and all preceding. Hey, you precocious *Press*ers! F— you and your white-apologist, bulls— rag. The *Post* has a million times the integrity you all do. Your writers are posturing a—es posing as intellectuals."

May 7: "Oh you wacky right-wing boys at the *Press* and your neo-con and just plain stupid-con politics. When you're not whining about the *Voice*, you're talking about the evil liberal media, or bashing Bill and Hillary and praising Newt as the second coming. What, do you get your politics from Rush Limbaugh or something?"

In addition, MUGGER consistently wins the Readers' Poll entry "Best Reason to Skip *NYPress*" in our annual "Best of Manhattan" issue.

In a *Wall Street Journal* article this past summer, Richard Norton Smith, biographer of *Chicago Tribune* proprietor Robert R. McCormick, wrote, "McCormick recognized that a paper unwilling to offend its readers is unlikely to engage them, much less win their loyalty. So he hurled editorial thunderbolts. . . ." That's what we try to do at *NYPress*, and as it happens, the paper is profitable. Circulation is now an ABC-audited 110,000 weekly, advertisers have grown at a steady clip—especially since the *Voice* followed our lead and went free in '96 (hoping to drive us out of business)—and our staff is paid far more than a living wage. Please excuse the self-aggrandizement that laces this essay; in Manhattan, we're in something of a vacuum and considered "weird" and "subversive" simply because several of our writers choose to endorse conservative politics. In my view, it's 1997, not the late 1970s, and *NYPress* is actually far more representative of the city than any of our competitors.

That fuzzy feeling aside, it still doesn't offer much comfort when MUGGER is sent a tin-foil package of feces in the mail. ♦

TRADE OF SHAME

Hugh Thomas on the World of Slaving

By William Anthony Hay

Of all the iniquities of human history, the slave trade stands among the worst. Slave-trading was the equivalent of murder, since sea captains expected a proportion of slaves on each voyage to die. Of course, quick death might have been preferable to the prolonged agony of life in bondage.

Hugh Thomas
The Slave Trade
The Story of the Atlantic Slave Trade, 1440-1870
Simon & Schuster, 928 pp., $37.50

Any examination of the slave trade faces the formidable barriers of racial politics and white guilt. The British historian Hugh Thomas, in his massive new book *The Slave Trade*, overcomes these barriers to give a thorough account of the Atlantic trade's rise and fall. He asks, Why did a trade in slaves begin in the 15th century, and why did it attract enough opposition to be abolished 400 years later? Slavery in northern Europe had almost disappeared by the 13th century—feudalism offered a more efficient means of mobilizing labor. Along the Mediterranean, a different situation prevailed—the Arab invasion of Spain and the subsequent Spanish reconquest brought slavery back into the Iberian peninsula on a large scale. At the time, slavery lacked a racial connotation, as slaves came from across Europe and Africa. Most black slaves were taken from Ethiopia and Sudan until Moorish trade with West Africa

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developed through the Sahara. Even then, slaves were expensive, bought largely by Arabs.

Exploration of the Atlantic islands and the New World made slavery a growth industry. Not only did West Africa become accessible, but, as Thomas describes, Spaniards, already familiar with slavery at home, established it in the Caribbean, importing slaves as disease decimated the indigenous peoples. Catholic rulers feared sending Arab or Berber slaves because they might spread Islam; blacks from West Africa provided a ready alternative for a labor-hungry market.

Although slaves performed all sorts of work, the introduction of sugar cultivation raised the demand for captives and sparked a boom in the trade. As Thomas explains, the turn away from bringing white laborers to tropical colonies proved decisive. White indentured servants had been common in early North American and Caribbean colonies until whites came to be seen as unfit for physical labor under the sun. Absurd as this notion was, it encouraged a reliance on black slaves, stifling white immigration and free labor generally.

Thomas describes the result as an expanding trade in Africans that was controlled by Portugal. After 1700, French, Dutch, and English adventurers forced their way into the market. While Britain eventually became the largest trader in slaves, no one nation controlled the trade. It was, Thomas states, a truly international endeavor, involving businesses all across Europe and the Americas.

Thomas's erudition shows in his discussion of Iberia and its Latin American progeny (his specialty). But his account of Britain's involvement falters. He never quite explains why events unfolded as they did. Take the anti-slavery cause: It made little headway when the slave trade revived during the Renaissance, but Thomas leaves open the question of what made it more effective in the late 18th century, the trade's height.

He does suggest, however, that the evils of slavery became better known. John Wesley and Samuel Johnson damned slavery, with Johnson even raising a toast to the next slave revolt in the West Indies. The case brought in 1783 of the British slave ship *Zong*, from which a captain two years before had cast slaves overboard during an outbreak of illness so as not to lose his cargo's insurance, caused great controversy and later inspired J.M.W. Turner's monumental painting *Slave Ship* (1840). Britain effectively prohibited slavery within its home territories in 1772 and banned the colonial trade in 1807 (as the United States would the next year). In 1815, Lord Castlereagh, the British foreign secretary, sought an international ban at the Congress of Vienna and won it.

Yet slave trading persisted because, as Thomas demonstrates, it could not be separated from slave holding. Critics pointed out, realistically, that the trade ban would worsen the conditions under which captives were shipped, because slaves would now be crammed into vessels designed to sail at short notice and to escape detection. The slaves on board were given even less food and water than before.

Africans themselves defended the trade and eagerly provided slaves to

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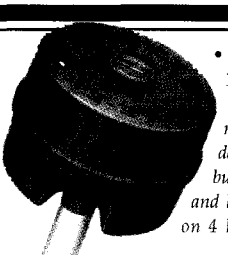

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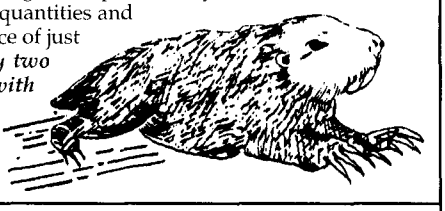

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buyers in Cuba and Brazil. One African prince, distrustful of British motives, insisted on a clause in an 1841 treaty giving his people the right to revive the trade if British subjects entered into it again. Enforcement of the worldwide ban on slaving devolved mainly on the Royal Navy. The United States and, to a lesser extent, Spain opposed inspection of ships under their flags, and international courts soon appeared to judge accused slavers. The relatively light penalties imposed by these courts dissuaded few, and anti-trading patrols actually added an element of excitement for some of the traders.

The slave trade ended only when Britain acted to cut off both the source and the demand. African rulers whose kingdoms existed to provide slaves faced a choice: find another racket or fall. Several British expeditions destroyed slaving bases that had existed for centuries, and the effort led Britain and other European nations to take direct control over stretches of Africa's coast in order to halt the trade. Diplomatic pressure forced Brazil to make the importation of slaves a crime. Cuba, the trade's last market, likewise saw a crackdown. Although slavery persisted in pockets of the Americas for a few more years, the Atlantic slave trade ended once and for all in 1870.

Although Thomas's book is mammoth, the most comprehensive study we have, it is curiously limited. It may seem odd to challenge a 900-page book for not developing its subject, but Thomas might have given up a few factual details to delve more deeply into the impact of slaving and the reasons for its decline.

Then there is the question of responsibility: Louis Farrakhan and his followers insist that the Jews ran the trade, an argument that Thomas neatly dismisses. A greater number of royal families—African and European—participated in the slave trade than Jewish ones.

And what about the slavery of more recent times, indeed of our day? It continues to do its ugly business in Sudan and Mauritania, with little condemnation from the civilized world. Where, we might well ask, are our generation's abolitionists? ♦

A Priest ABC Could Love

The Emersonian Spirit on TV's Nothing Sacred

By Christopher Stump

Mindful of popular demand for television shows featuring religious themes, the networks this season have fully obliged us. Consider Father Ray, the priest on ABC's new offering *Nothing Sacred*. It could be that more people have heard of him than have watched the show, because he has provoked devout Christians, particularly devout Catholics, who feel he mocks their faith. Indeed, Father Ray's is a peculiar sort of religion.

He freely philosophizes from his pulpit, along the following lines: Christianity today consists of "creeds that would take us back to the chimpanzee"; belief is a matter of "affirmations of the soul"; what is important ultimately is the "God in you."

Actually, those words are from Ralph Waldo Emerson, the apostle of "self-reliance," but the message of *Nothing Sacred* is much the same—and thus nothing new. Father Ray preaches Emerson Lite, the gospel of American spiritual individualism, the summons to heed the promptings of your deepest self. Henry James delivered the classic response to this type when, exasperated with Emerson, he exclaimed, "O you man without a handle!"

Father Ray is by most measures a poor custodian of belief. His sermons, full of sneers and breezy complaints, are the bleakest of fare. He is nearly drawn from the priesthood by the lure of a former lover. He believes God urges nothing on us, save that we urge nothing on others. The priesthood seems to him an afterthought, for he has little use for prayer, and only grudging respect for the duties of his vocation. He appears neither Catholic nor Protestant—indeed, barely Christian. Emerson defines true religion as "a faith like Christ's in the infinitude of man," and it is a faith to which Father Ray gives splendid testimony.

The Sage of Concord advises us to rely only on "what is true for you in your private heart." And Father Ray? When a woman seeks him out for advice on abortion, he says, "You're an adult, with your own conscience. I can't tell you what to do."

As Emerson sees it, one's self or "conscience" holds fast against organized religion. Freighted with dogma and tradition long obsolete, the church stifles the self, smothers its inspiration, and detracts from its independence. "What have I to do with the sacredness of traditions," Emerson asks, "if I live wholly from within?"

In Emerson's mind, as in Father Ray's, the freedom to be yourself—to believe and act apart from the crowd—keeps company with the freedom to know God "at first hand," wholly apart from church or creed. Emerson sidelines formal religion insofar as it subtracts from a pure, unmediated acquaintance with divine inspiration. When a parishioner cries to Father Leo, a friend

Christopher Stump is a reporter at The Weekly Standard.

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and colleague of Father Ray, "I want to know! I have nothing to hold on to!," he responds, "Nothing but you and God—that is as good a definition of pure faith as I've ever heard."

This response reflects the Emersonian yearning to recover the divine by striking out on one's own, free of church or crowd—as alone as the pioneer who lit out across America's abyss of space with nothing but God and himself. In Emerson's terms, the crowd, by urging conformity, prevents you from being yourself. The church, by stifling the spirit, prevents you from knowing God. Knowledge of the self in solitude begets knowledge of God; the freedom to be yourself becomes one and the same as the freedom to be *by* yourself.

Emerson permits this American self to be as boundless in potential as the unexploited wilderness. He urges each of us to enthrone a sacred Me—itself *part* of God—whose potential is as vast as the prairies, but whose power has been sapped by organized religion.

To the contrary: The fervid spiritual individualism of Emerson echoed by *Nothing Sacred*'s priests in fact leads to conformity. The self, having discarded tradition and authority, has little to fall back on but the opinions of others. Or it collapses into the arms of hustlers who promise to guide it back toward being . . . itself. Whatever that may be.

Emerson's legacy may be discerned in the legions who are averse to organized religion, in whom churchless "spirituality," in all its solitude, flourishes. It is evident in those who shop and hop from church to church, captive to the self's every whim, in search of a religion built to their specifications. *Nothing Sacred* gladly drinks from this legacy. It is a legacy that disposes us to hear the voice of God in a self that believes it can speak of God by speaking of humanity in a loud voice.

Says Emerson, "Nothing is at last sacred but the integrity of your own mind." For ABC, nothing is at last sacred but the ratings. Thus *Nothing Sacred* is likely doomed. If only its departure could doom the claim that nothing, but nothing, is sacred but the puny self. ♦

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The New York Times

Parody

White House Explains Document Delays

By STEPHEN LABATON

WASHINGTON, Oct. 17 — After months of delays and evasions, the White House today produced its first credible explanation of why it has been unable to respond in a timely fashion to the document requests of Senate investigators. In 1995, spokesman Michael McCurry said, the entire White House filing system was reorganized by a task force headed by Hillary Rodham Clinton and Ira Magaziner.

Under the system they instituted, all White House filing cabinets were taken from their original offices and merged into 37 filing cabinet "Alliances." Each Alliance is divided into 216 "Paperwork Provider Networks," and each member of the White House staff was given a laminated "Paperwork Access Card." With the cards, staff members have free access to files, but they are not able to choose which files they will retrieve. Selection committees were set up to match file seekers with actual files. These committees are guided by a 1,200-step criteria system stored in Mr. Magaziner's head.

According to Mr. McCurry, the system is not yet working as perfectly as Mr. Magaziner and Mrs. Clinton envisioned. For example, the files of Justice Department investigators are in shambles. The crayon drawings are still mixed in with the fingerpaintings and the "Dear Santa" letters. The president reports that he cannot find his favorite video—"The Sit-Coms of Markie Post"—and has been stuck in his private quarters with nothing to watch but a four-minute loop called "James Riady Sent Me." Furthermore, despite the best efforts of Mrs. Clinton, the Rose law firm files keep reappearing. If they are not continually refiled, they are in danger of being found. Meanwhile, White House attorney Lanny Breuer, age 4, has been unable to find the nose on his face. Mr. McCurry fur-

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